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No. 91-712

In the Supreme Court of the United States

OCTOBER TERM, 1991

UNITED STATES OF AMERICA, PETITIONER

v.

HUMBERTO ALVAREZ-MACHAIN

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED OCTOBER 25, 1991
CERTIORARI GRANTED JANUARY 10, 1992

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UNITED STATES OF AMERICA, PETITIONER

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HUMBERTO ALVAREZ-MACHAIN

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

No. CR 87-422-21-ER

JUDGE EDWARD RAFEEDIE

UNITED STATES OF AMERICA, PLAINTIFF

v.

RAFAEL CARO QUINTERO, ET AL., DEFENDANTS

RELEVANT DOCKET ENTRIES

Date	No.	PROCEEDINGS
01/31/90	742	Filed indictment (fld sixth indictment. KKG) (Dkt'd 02/13/90).
		* * * * *
02/08/90	769	Filed bench warrant returned unexecuted (Dkt'd 02/14/90).
		* * * * *
04/05/90		Dft arrested in El Paso, TX. LJ (Dkt'd 05/02/90).
04/10/90	950	Arraignment held (Counts 3-4, 6, 7, 8)) Dft is arrn. Dft states true name is Humberto Lvarez-Machain, copy indict givt to Dft. Crt. questions Dft re his physical and mental conditions, and advises Dft of the nature and possible consequences of said plea, Dft waives reading of indict. Indict. read. Dft pleads not guilty cnts 3, 4, 6, 7 & 8. Trial set for 5/1/90 at 9:30 a.m. LJ (J. Churchill) (Judge Rafeedie) (Dkt'd 05/02/90).
		* * * * *

Date	No.	PROCEEDINGS
	950	Defendant enters plea of not guilty (Counts 3-4, 6, 7, 8) (Judge Rafeedie) (Dkt'd 05/02/90).
		* * * * *
04/19/90	976	Status hearing held (status conf—crt and counsel confer. trial to commence as sched. motn Dft Machain on the issue of Jurisd is to be fld and srvd 5/11/90, Govt's response 5/18/90, Dft's reply 5/21/90 and hrg. on the mitn 5/25/90 at 9:30 a.m. motn Dft matta to suppress is cont'd to 5/—/90 at 9:30 a.m. LJ (J. Churchill) (Judge Rafeedie) (Dkt'd 05/02/90).
		* * * * *
05/18/90	1056	Fld Gov't Opp to Dft's motn to dism for outrageous Govt conduct & for lack of jurisdiction of the person & subj matter, declarations, exhs, ret 5/25/90 at 9:30 a.m. EW (Dkt'd 05/23/90).
05/21/90	1057	Fld Dft's reply to Govt's Opp to motn to dism for outrageous Govt conduct & motn to dism for lack of jurisdiction of the person & subj matter (F.R.C.P. 12, et seq), memo of pts & auth, ret 5/25/90 at 9:30 a.m. EW (Dkt'd 05/23/90).
		* * * * *
05/23/90	1068	Fld govt's errata to Govt's Opp to Dft's motn to dism for outrageous govt conduct, ret 5/25/90 at 2 p.m. EW (Dkt's 05/30/90).
	1069	Fld Govt's Supplemental Opp to Dft's motn to dism for outrageous govt conduct, ret 5/25/90 at 2 p.m. EW (Dkt'd 05/30/90).
05/25/90	1084	Status hearing held (Motn Dft Alvarez-Machain to dism for outrageous govt conduct, to dism for lack of jurisdiction, crt. & cnsl conf, motn taken under submission, pty

Date	No.	PROCEEDINGS
		to file supplemental brief & argument as to whether or not the crt has auth to grant relief req, fld wit/exh list. S/JC-EW) (Judge Rafeedie) (Dkt'd 06/05/90).
		* * * * *
05/30/90	1085	Fld Govt's 2nd Supplemental Opp to Dft's motn to dism for outrageous govt conduct. EW (Dkt'd 06/05/90).
	1085	Fld Govt's 2nd Supplemental Opp to Dft's motn to dism for outrageous govt conduct. EW (Dkt'd 06/05/90).
	1086	Fld Dft's Supplemental pts & auth to dism indict. EW (Dkt'd 06/05/90).
	1091	Order filed (Fld ord re: Alvarez-Machain's motn to dism for lack of jurisdiction, it is ord that Dft may have until & incldng 6/04/90, to file a supplemental brief, the govt may then have until & incldng 6/11/90 to file any response to Dft's supplemental brief, this matter will then be taken under submission w/o oral argument, it is fur ord that the govt shall submit to this crt, soon as practicable, any docs indicating that the govt of Mexico has fld an official protest re the abduction of Dft Machain w/the US Govt, the govt shall also submit translated transcriptions of any such docs, it is fur ord that the clk of the crt shall serve, by us mail, cpy of this ord on consl for the pty in this matter. EW) (Judge Rafeedie) Dkt'd 06/07/90).
06/04/90	1097	Fld Dft's verif of exh Fld in supplemental pts & auth to dism indict (5/30/90). ED (Dkt'd 06/08/90).
		* * * * *

Date	No.	PROCEEDINGS
06/08/90	1125	Order filed (fld supplemental ord setting supplemental ord setting supplemental briefing sch on Dft Machain's motn to dism for lack of jurisdiction, it is ord that Dft shal file on or bf 6/13/90 a supplemental brief addressing the issues outlined in the crt's 5/30/90 ord, it is fur ord that the govt shall file on or bf 6/18/90 a supplemental brief addressing the issues outlined in the crt's 5/30/90 ord, these briefs my be redundant of earlier briefs fld in this matter if the pty feel that their earlier briefs cover areas of inquiry outlined in the crt's 5/30/90 ord, the crt's 5/30/90 ord remains in force to the extent that it ord the govt to submit any docs indicating that the govt of Mexico has fld an official protest re the abduction of Dft Machain w/the US Govt & translated transcription of such docs, it is fur ord that the clk of the crt shall serve, by US mail, cpy of this ord on cnsl for the pty in this matter. EW) (Judge Rafeedie) (Dkt'd 06/18/90).
		* * * * *
06/13/90	1130	Fld Dft's 3rd supplemental pts & auth in supp of dft Alvarez-Machain's motn to dism indict for lack of jurisdiction & outrageous govt misconduct. EW (Dkt'd 06/18/90).
06/18/90	1139	Fld gov'ts 3rd Supplemental Opp to Dft's motn to dism for outrageous govt conduct. EW (Dkt'd 06/22/90).
06/19/90	1141	Fld Dft's reply to govt's 3rd Supplemental Opp to Dft Alvarez-Machain's motn to dism indict for lack of jurisdiction & outrageous govt misconduct (rules of crt 7.7). EW (Dkt'd 06/25/90).
		* * * * *

Date	No.	PROCEEDINGS
07/02/90		Fld Dft's supplement to Dft Alvarez-Machain's reply to govt's 3rd Opp to motn to dism indict for lack of jurisdiction & outrageous govt misconduct. EW (Dkt't 07/09/90).
08/06/90	1262	Fld govt's supplemental filing re Dft's motn to dism for outrageous govt conduct. EW (Dkt'd 08/07/90).
08/08/90	1263	Fld Dft's reply to gov't supplemental filing re Dft's motn to dism for outrageous govt conduct. EW (Dkt'd 08/14/90).
08/10/90	1265	Status hearing held (the crt grants Dft's motn to dism, the crt also holds that treaty re expedition had been viol by unlawfully abducting Dft, the crt fur holds that this crt lacks jurisdiction to try Dft & ord Dft discharged forthwith, the govt to ord to repatriate Dft to his own country, the govt req a stay of the ord to discharge Dft forthwith in ord to conf w/the Justice Dept as to any fur action to be taken, the crt grants the req, & the exec of the ord to forthwith discharge is stayed until the govt's position can be ascertained, a stat conf on the matter is set for 8/15/90).
		Dismissed on court's motion (Counts 3-4, 6, 7, 8) (Judge Rafeedie) (Dkt'd 08/15/90).
		Status hearing set for 08/17/90 at 9:00 a.m. (re stat conf. LL-EW) (Judge Rafeedie) (Dkt'd 08/15/90).
	1266	Order filed (fld errata to ord & Opinion. EW) (Judge Rafeedie) (Dkt'd 08/16/90).

* * * * *

Date	No.	PROCEEDINGS
	1279	Filed notice of appeal (Counts 3-4, 6-8) (Appl #8) (fld govt's notc of appeal frm the ord of the Dist Crt ent on 8/10/90 discharging Dft Humberto Alvarez-Machain & ordering his ret to Mexico. EW) (Dkt'd 08/23/90).

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 90-50459

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT

v.

HUMBERTO ALVAREZ-MACHAIN, DEFENDANT-APPELLEE

RELEVANT DOCKET ENTRIES

Date	No.	PROCEEDINGS
8/17/90	1	Docketed cause and entered appearances of counsel. (case opened on emergency mtn- dc briefing schedule not yet processed) [90-50459] (dmd) [90-50459]
		* * * * *
10/9/90	19	Received Appellant USA in 90-50459's brief in 15 copies 47 pages (Informal: n); orig. + 15 aplt's addendum to brief; 5 excerpts of record, served 10/4/90. (Refer to Promo) [90-50459] (sw) [Entry date 10/11/90] [90-50459]
		* * * * *
10/19/90	22	Filed order (Deputy Clerk: ra) the Government's mtn to file a separately bound addendum to aple's brief is granted. The addendum already recvd shall be filed. [90-50459] (dmd) [90-50459]
		* * * * *

11/13/90	25	Received Peter A. Schey's letter dated 11/12/90 with letter from the Mexican Government for submission to the panel (11/9). (REFER TO MERITS PANEL) (sw) [Entry date 11/14/90] [Edit date 01/14/91] [90-50459]
		* * * * *
11/20/90		Received orig. + 15 copies aple's brief of 6 excerpts of record & orgi. + 15 addendum to aple's brief, served on 11/15/90. (Pending St/Rel Cases; Mtn to file addendum) [90-50459] (sw) [Entry date 11/21/90] [90-50459]
11/23/90	33	Filed aple Humberto Alvarez-Machain's motion for leave to file addendum to aple's brief; Declaration of Paul L. Hoffman in support of mtns for leave to file Amicus Briefs, served on 11/21/90. (Promo) (sw) [Entry date 11/26/90] [90-50459]
		* * * * *
1/11/91	44	Filed original and 15 copies appellee Humberto Alvarez-Machain's 50 pages answering brief and 5 supple excerpts of record, served on 11/15/90. [90-50459] (sw) [Entry date 01/12/91] [90-50459]
1/11/91	45	Filed original and 15 copies USA's 25 pages reply brief (Informal: n), served on 12/7/90. [90-50459] (sw) [Entry date 01/12/91] [90-50459]
		* * * * *
2/28/91	57	The United States appeals the district court's order discharging Humberto Alvarez-Machain and ordering him repatriated to Mexico on the ground the United States violated the extradition treaty between the U.S. and Mexico by unilaterally abducting Alvarez-Machain for the torture/kidnapping/murder of a federal agent.

Date	No.	PROCEEDINGS

ISSUES:

1. Did the dc err in determining the extradition treaty was violated where formal extradition proceedings were not commenced by the U.S., which instead had Alvarez-Machain abducted Mexican police pursuant to an agreement with DEA officials?

2. Did the dc err in determining the Ker-Frisbie doctrine did apply to treaty violations, and thus, Alvarez-Machain could not be prosecuted? See *Ker* v. *Illinois*, 119 U.S. 421 (1886), *Frisbie* v. *Collins*, 342 U.S. 519 (1952).

3. Did the dc err in determining that Mexico vested Alvarez-Machain with derivative standing under the treaty by presenting the U.S. government a diplomatic note that effect?

4. Is the extradition treaty self executing and, therefore, directly enforceable in the dc?

5. Does due process preclude this prosecution because of outrageous government conduct?

NOTES:

*Other issues are raised. The district court is stayed by emergency order of 8/23/90.

*Alvarez-Machain says this case is the same as *U.S.* v. *Ramscher*, 119, U.S. 407 (1886).

*The government claims that 88-5421, 88-5462, and 89-50028 are related appeals. No. 90-5-497; closed cross-appeal.

Date	No.	PROCEEDINGS
		*Alvarez-Machain's statement of related cases was not available at time of Inv.
		*See amicus brief orders of 1/11/91.
		*This case is to be expedited per order of 8/23/90. Atty: D Collins Date: 2/7/91
		[90-50459] (rk) [Entry date 03/01/91] [90-50459]
		* * * * *
4/4/91	65	Argued to Mary M. Schroeder, Alfred T. Goodwin, Samuel P. King; SUBMISSION DEFERRED, for length of time to be mentioned later. Must wait for the decision of "*USA* v. *Verdugo-Urquidez*" which was argued & deferred on 2/4/91. [90-50459] (rmw) [90-50459]
		* * * * *
4/8/91	67	Filed order (Alfred T. Goodwin, Mary M. Schroeder, Samuel P. King) : Submission of this case is deferred pending this court's decision in *United States* v. *Verdugo-Urquidez* or further order of the court. [90-50459] (jw) [90-50459]
		* * * * *
8/8/91	75	Filed order (Alfred T. Goodwin, Mary M. Schroeder, Samuel P. King) : Cnsl shall file within 14 days from the date of this order, supplemental memoranda, note to exceed ten typewritten pages, explaining the effect of *United States* v. *Verdugo-Urquidez*, slip op. 9063 (9th Cir. July 22, 1991), on their position in this case. [90-50459] (ec) [90-50459]

Date	No.	PROCEEDINGS
8/23/91	76	Filed aple's memorandum in response to this Court's order of 8/8/91, served on 8/22/91/ (PANEL) [90-50459] (sw) [Entry date 08/27/91] [90-50459]
8/23/91	78	Filed Appellant USA's supplemental brief in response to the 8/8/91 order, served on 8/22/91. (PANEL) [90-50459] (sw) [Entry date 08/27/91] [90-50459]
		* * * * *
10/15/91	82	Filed order (Alfred T. Goodwin, Mary M. Schroeder, Samuel P. King): This case is hereby resubmitted effective 7/22/91. [90-50459] (sw) [90-50459]
10/18/91	89	FILED OPINION: AFFIRMED (Terminated on the Merits after Oral Hearing; Affirmed; Written; Signed, Published. Alfred T. Goodwin, author; Mary M. Schroeder; Samuel P. King). FILED AND ENTERED JUDGMENT. [90-50459] (sw) [Entry date 11/18/91] [90-50459]
10/23/81	85	Filed Appellant USA in 90-50459's motion to stay the mandate pending application for writ of certiorari; Declaration of Steven E. Zipperstein (10/22). (Lead Judge) [90-50459] [90-50459] (sw) [Entry date 10/24/91] [90-50459]
10/30/91	87	Filed order (Alfred T. Goodwin, Mary M. Schroeder, Samuel P. King): Appellant's motion to stay the mandate pending application for writ of certiorari is GRANTED. [90-50459] (sw) [90-50459]

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
June 1989 Grand Jury

CR 87-422(F)-ER

UNITED STATES OF AMERICA, PLAINTIFF

v.

RAFAEL CARO-QUINTERO, aka "Rafael", aka "El Grenas", aka "Rafa", ERNESTO FONSECA-CARRILLO, aka "Don Neto", JUAN RAMON MATTA-BALLESTEROS; aka "El Negro", aka "El Colombiano", aka "Negro Jose", MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, JUAN GILBERTO HERNANDEZ-PARRA, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, JAVIER VASQUEZ-VELASCO, ANTONIO VASQUEZ-VELASCO, ANTONIO VASQUEZ-OCHOA, EZEQUIEL GODINEZ-CERVANTES, INES CALDERON-QUINTERO, aka "Rolando Cervantes", ALBINO BAZAN-PADILLA, DEFENDANTS

[18 U.S.C. § 1959: Violent Crimes in Aid of Racketeering; 18 U.S.C. §§ 371, 1959: Conspiracy to Commit Violent Crimes in Aid of Racketeering; 18 U.S.C. § 1201(c): Conspiracy to Kidnap a Federal Agent; 18 U.S.C. § 1201(a)(5): Kidnapping of a Federal Agent; 18 U.S.C. §§ 1111, 1114: Felony Murder of a Federal Agent; 18 U.S.C. § 2: Aiding and Abetting; 18 U.S.C. § 3: Accessory After the Fact]

SIXTH SUPERSEDING INDICTMENT

[Filed Feb. 13, 1990]

The Grand Jury charges:

General Allegations

1. At all times referred to in this Sixth Superseding Indictment, defendants RAFAEL CARO-QUINTERO, aka "Rafael", aka "El Grenas", aka "Rafa", ERNESTO FONSECA-CARRILLO, aka "Don Neto", JUAN RAMON MATTA-BALLESTEROS, aka "El Negro", aka "El Colombiano", aka "Negro Jose", MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, JUAN GILBERTO HERNANDEZ-PARRA, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, JAVIER VASQUEZ-VELASCO, ANTONIO VASQUEZ-OCHOA, EZEQUIEL GODINEZ-CERVANTES, INES CALDERON-QUINTERO, aka "Rolando Cervantes", ALBINO BAZAN-PADILLA, and unindicted co-conspirators Rene Martin Verdugo-Urquidez, Raul Lopez-Alvarez and Jesus Felix-Gutierrez, were members of an international narcotics enterprise based in Guadalajara, Jalisco, Mexico (hereinafter referred to as the "Guadalajara Narcotics Cartel").

2. At all times referred to in this Sixth Superseding Indictment, the Guadalajara Narcotics Cartel engaged in racketeering activity, including, but not limited to, the cultivation, importation and distribution of multi-ton quantities of marijuana in Mexico, the Central District of California, and elsewhere.

3. At all times referred to in this Sixth Superseding Indictment, the Guadalajara Narcotics Cartel also engaged in the importation and distribution of multi-kilogram quantities of cocaine in Mexico, Colombia, Costa Rica, the Central District of California, and elsewhere.

4. At all times referred to in this Sixth Superseding Indictment, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS and MIGUEL ANGEL FELIX-GALLARDO supervised and managed the Guadalajara Narcotics Cartel, and co-conspirator Rene Martin Verdugo-Urquidez was a high level lieutenant of defendant RAFAEL CARO-QUINTERO in said enterprise.

5. At all times referred to in this Sixth Superseding Indictment, defendants RUBEN ZUNO-ARCE, HUMBERTO ALVAREZ-MACHAIN, JAVIER VASQUEZ-VELASCO, ANTONIO VASQUEZ-VELASCO, ANTONIO VASQUEZ-OCHOA and EZEQUIEL GODINEZ-CERVANTES assisted, aided and abetted the Guadalajara Narcotics Cartel.

6. At all times referred to in this Sixth Superseding Indictment, Enrique Camarena-Salazar was a Special Agent employed by the Drug Enforcement Administration (hereinafter "DEA") and assigned to the DEA office in Guadalajara, Jalisco, Mexico.

7. At all times referred to in this Sixth Superseding Indictment, Special Agent Enrique Camarena-Salazar was responsible for investigating the Guadalajara Narcotics Cartel.

8. At all times referred to in this Sixth Superseding Indictment, Alfredo Zavala-Avelar was a pilot who assisted the DEA and Special Agent Enrique Camarena-Salazar in locating marijuana fields in Mexico.

9. At all times referred to in this Sixth Superseding Indictment, John Walker was a United States citizen temporarily residing in Guadalajara, Jalisco, Mexico.

10. At all times referred to in this Sixth Superseding Indictment, Alberto Radelat was a United States permanent resident alien temporarily residing in Guadalajara, Jalisco, Mexico.

11. At all times referred to in this Sixth Superseding Indictment, defendant MANUEL IBARRA-HERRERA was the Director of the Mexican Federal Judicial Police.

12. At all times referred to in this Sixth Superseding Indictment, defendant MIGUEL ALDANA-IBARRA was the Director of Interpol in Mexico.

13. At all times referred to in this Sixth Superseding Indictment, defendant ARMANDO PAVON-REYES was a Comandante with Mexican Federal Judicial Police and asssigned by the Mexican government to head the investigation into the kidnapping and murder of Special Agent Enrique Camarena-Salazar.

14. At all times referred to in this Sixth Superseding Indictment, defendant SERGIO ESPINO-VERDIN, a Comandante with the Directorate of Federal Security in Mexico, worked for the Guadalajara Narcotics Cartel.

15. At all times referred to in this Sixth Superseding Indictment, defendant JUAN JOSE BERNABE-RAMIREZ, a State Judicial Police Officer assigned to the homicide investigation squad in Guadalajara, Jalisco, Mexico, worked for the Guadalajara Narcotics Cartel.

16. At all times referred to in this Sixth Superseding Indictment, co-conspirator Raul Lopez-Alvarez, a State Judicial Police officer assigned to the homicide investigation squad in Guadajalara, Jalisco, Mexico, worked for the Guadalajara Narcotics Cartel.

17. At all times referred to in this Sixth Superseding Indictment, defendant JUAN GILBERTO HERNANDEZ-PARRA, an agent with the Mexican Federal Judicial Police assigned to Guadalajara, Jalisco, Mexico, worked for the Guadalajara Narcotics Cartel.

18. Commencing in 1984, members of the Guadalajara Narcotics Cartel engaged in a series of actions the purpose and intent of which was to retaliate against the DEA, its agents and informants, in Mexico, and to learn the nature and extent of the DEA's knowledge of the membership and operations of the cartel. Such actions included, but were not limited to, the following:

a. On or about September 30, 1984, a confidential informant working for the DEA was shot in Guadalajara, Jalisco, Mexico, by members of the Guadalajara Narcotics Cartel.

b. On or about October 10, 1984, in Guadalajara, Jalisco, Mexico, members of the Guadalajara Narcotics Cartel machine-gunned a DEA automobile assigned to a DEA agent.

c. On or about January 30, 1985, John Walker and Alberto Radelat were murdered by members of the Guadalaraja Narcotics Cartel.

d. On or about February 7, 1985, Special Agent Enrique Camarena-Salazar and Alfredo Zavala-Avelar were kidnapped by members of the Guadalajara Narcotics Cartel.

e. On or about February 7, 1985, Special Agent Enrique Camerena-Salazar was taken to defendant RAFAEL CARO-QUINTERO's residence at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

f. Between on or about February 7, 1985, and February 9, 1985, Special Agent Enrique Camarena-Salazar and Alfredo Zavala-Avelar were tortured, interrogated and murdered.

19. On or about February 7, 1985, defendant JUAN JOSE BERNABE-RAMIREZ, and other named defendants and co-conspirators, were present at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

20. On or about February 9, 1985, defendant RAFAEL CARO-QUINTERO and co-conspirator Rene Martin Verdugo-Urquidez fled Guadalajara, Jalisco, Mexico.

21. On or about March 5, 1985, the bodies of Special Agent Enrique Camarena-Salazar and Alfredo Zavala-Avelar were found together in Zamora, Michoacan, Mexico.

22. On or about March 17, 1985, defendant RAFAEL CARO-QUINTERO fled Mexico to Costa Rica.

23. On or about June 17, 1985, the bodies of John Walker and Alberto Radelat were found together in Guadalajara, Jalisco, Mexico.

COUNT ONE

[18 U.S.C. §§ 1959, 2]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

On or about January 30, 1985, in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JAVIER BARBA-HERNANDEZ, JUAN GILBERTO HERNANDEZ-PARRA, JAVIER VASQUEZ-VELASCO, ANTONIO VASQUEZ-VELASCO, ANTONIO VASQUEZ-OCHOA, EZEQUIEL GODINEZ-CERVANTES, and others known and unknown to the Grand Jury, did aid, abet, counsel, induce, procure, cause and otherwise willfully participate in the murder of John Walker, which offense was committed for the purpose of maintaining and increasing the positions of the aforesaid defendants in an enterprise that engaged in racketeering activity, to wit: individuals associated for the purpose of trafficking in marijuana and cocaine, whose activities affected interstate and foreign commerce. The racketeering activity included, but is not limited to, the following substantive narcotics offenses:

1. From in or about November, 1983, through in or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute multi-ton quantities of marijuana which were being cultivated in marijuana fields in Zacatecas, Mexico.

2. In or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute approximately ten (10) tons of harvested marijuana in Zacatecas, Mexico.

3. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of Califor-

nia and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

4. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

5. In or about November, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute approximately 10,000 tons of marijuana which were being cultivated in marijuana fields in Chihuahua, Mexico.

6. On or about February 5, 1985, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, possessed two (2) tons of marijuana with intent to distribute.

COUNT TWO

[18 U.S.C. §§ 1959, 2]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

On or about January 30, 1985, in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JAVIER BARBA-HERNANDEZ, JUAN GILBERTO HERNANDEZ-PARRA, JAVIER VASQUEZ-VELASCO, ANTONIO VASQUEZ-VELASCO, ANTONIO VASQUEZ-OCHOA, EZEQUIEL GODINEZ-CERVANTES, and others known and unknown to the Grand Jury, did aid, abet, counsel, induce, procure, cause and otherwise willfully participate in the murder of Alberto Radelat, which offense was committed for the purpose of maintaining and increasing the positions of the aforesaid defendants in an enterprise that engaged in racketeering activity, to wit: individuals associated for the purpose of trafficking in marijuana and cocaine, whose activities affected interstate and foreign

commerce. The racketeering activity included, but is not limited to, the following substantive narcotics offenses:

1. From in or about November, 1983, through in or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute multi-ton quantities of marijuana which were being cultivated in marijuana fields in Zacatecas, Mexico.

2. In or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute approximately ten (10) tons of harvested marijuana in Zacatecas, Mexico.

3. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

4. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

5. In or about November, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute approximately 10,000 tons of marijuana which were being cultivated in marijuana fields in Chihuahua, Mexico.

6. On or about February 5, 1985, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, possessed two (2) tons of marijuana with intent to distribute.

COUNT THREE

[18 U.S.C. §§ 371, 1959, 2]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

A. *Objects of the Conspiracy*

Beginning on a date unknown and continuing to on or about February 9, 1985, within Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, JUAN GILBERTO HERNANDEZ-PARRA, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, and co-conspirators Rene Martin Verdugo-Urquidez, Raul Lopez-Alvarez, and others known and unknown to the Grand Jury, unlawfully and knowingly combined, conspired, confederated and agreed to commit an offense against the United States, namely:

> To knowingly and intentionally kidnap, torture, interrogate and murder Special Agent Enrique Camarena-Salazar, in violation of Title 18, United States Code, Section 1959.

B. *Means of the Conspiracy*

The foregoing objects of the conspiracy were accomplished as follows:

1. Defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA,

MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, JUAN GILBERTO HERNANDEZ-PARRA, ARMANDO PAVON-REYES, and others both known and unknown, organized and put into operation a scheme to kidnap and murder Enrique Camarena-Salazar, a Special Agent with the United States Drug Enforcement Administration.

2. Defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, and co-conspirators Rene Martin Verdugo-Urquidez, and Raul Lopez-Alvarez, and other members of the Guadalajara Narcotics Cartel, caused Special Agent Enrique Camarena-Salazar to be kidnapped, held against his will, tortured, interrogated and murdered.

C. *Overt Acts*

The following overt acts, among others, were committed by the defendants and by their co-conspirators in furtherance of the foregoing conspiracy in Guadalajara, Jalisco, Mexico:

1. In or about October, 1984, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, and others, met at a residence of defendant JAVIER BARBA-HERNANDEZ in Guadalajara, Jalisco, Mexico, and discussed the kidnapping of Special Agent Enrique Camarena-Salazar.

2. In or about December, 1984, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CAR-

RILLO, JAVIER BARBA-HERNANDEZ, and others, met at a residence of defendant ERNESTO FONSECA-CARRILLO in Guadalajara, Jalisco, Mexico, and had a discussion concerning Special Agent Enrique Camarena-Salazar.

3. In or about December, 1984, defendant JUAN GILBERTO HERNANDEZ-PARRA, an agent with the Mexican Federal Judicial Police, was present at this meeting at the residence of defendant ERNESTO FONSECA-CARRILLO in Guadalajara, Jalisco, Mexico.

4. In or about the first week of February, 1985, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, RUBEN ZUNO-ARCE and JAVIER BARBA-HERNANDEZ met at a residence of defendant JAVIER BARBA-HERNANDEZ in Guadalajara, Jalisco, Mexico, and discussed the kidnapping and interrogation of Special Agent Enrique Camarena-Salazar.

5. On or about February 7, 1985, Special Agent En-Enrique Camarena-Salazar was abducted by members of the Guardalajara Narcotics Cartel.

6. From on or about February 7, 1985, to February 9, 1985, defendant RAFAEL CARO-QUINTERO, and others, interrogated Special Agent Enrique Camarena-Salazar at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

7. From on or about February 7, 1985, to February 9, 1985, defendant SERGIO ESPINO-VERDIN, a Comandante with the Directorate of Federal Security, and others, interrogated Special Agent Enrique Camarena-Salazar at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

8. On or about February 8, 1985, defendant ERNESTO FONSECA-CARRILLO was present at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

9. On or about Febuary 8, 1985, defendant JUAN JOSE BERNABE-RAMIREZ, a State Judicial Police Officer, was present at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

10. On or about February 8, 1985, defendant HUMBERTO ALVAREZ-MACHAIN was present at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

11. On or about February 8, 1985, co-conspirator Raul Lopez-Alvarez, a State Judicial Police Officer, was present at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

12. On or about February 8, 1985, co-conspirator Rene Martin Verdugo-Urquidez was present at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

13. On or about February 10, 1985, defendant MIGUEL ANGEL FELIZ-GALLARDO possessed at his residence in Guadalajara, Jalisco, Mexico, a photograph of Special Agent Enrique Camarena-Salazar.

COUNT FOUR

[18 U.S.C. §§ 1959, 2]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

On or about February 7, 1985, in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, JUAN GILBERTO HERNANDEZ-PARRA, SERGIO ESPINO-VERDIN, HUMBERTO ALVEREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ and

co-conspirators Rene Martin Verdugo-Urquidez, Raul Lopez-Alvarez, and others known and unknown to the Grand Jury, did aid, abet, counsel, induce, procure, cause and otherwise willfully participate in the kidnapping and murder of Special Agent Enrique Camarena-Salazar, which offenses were committed for the purpose of maintaining and increasing the positions of the aforesaid defendants in an enterprise that engaged in racketeering activity, to wit: individuals associated for the purpose of trafficking in marijuana and cocaine, whose activities affected interstate and foreign commerce. The racketeering activity included, but is not limited to, the following substantive narcotics offenses:

1. From in or about November, 1983, through in or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute multi-ton quantities of marijuana which were being cultivated in marijuana fields in Zacatecas, Mexico.

2. In or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute approximately ten (10) tons of harvested marijuana in Zacatecas, Mexico.

3. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

4. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

5. In or about November, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to dis-

tribute approximately 10,000 tons of marijuana which were being cultivated in marijuana fields in Chihuahua, Mexico.

6. On or about February 5, 1985, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, possessed two (2) tons of marijuana with intent to distribute.

COUNT FIVE

[18 U.S.C. §§ 1959, 2]

The general allegations of this Sixth Superseding Indicement are realleged in this count and incorporated herein by reference.

On or about February 7, 1985, in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, SERGIO ESPINO-VERDIN, JUAN JOSE BERNABE-RAMIREZ and co-spirators Rene Martin Verdugo-Urquidez, Raul Lopez-Alvarez, and others known and unknown to the Grand Jury, did aid, abet, counsel, induce, procure, cause and otherwise willfully participate in the kidnapping and murder of Alfredo Zavala-Avelar, which offenses were committed for the purpose of maintaining and increasing the positions of the aforesaid defendants in an enterprise that engaged in racketeering activity, to wit: individuals associated for the purpose of trafficking in marijuana and cocaine, whose activities affected interstate and foreign commerce. The racketeering activity included, but is not limited to, the following substantive narcotics offenses:

1. From in or about November, 1983, through in or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute multi-ton quantities of marijuana which were being cultivated in marijuana fields in Zacatecas, Mexico.

2. In or about June, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadala-

jara Narcotics Cartel, possessed with intent to distribute approximately ten (10) tons of harvested marijuana in Zacatecas, Mexico.

3. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

4. In or about April, 1984, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, in the Central District of California and elsewhere, possessed with intent to distribute approximately two (2) tons of marijuana.

5. In or about November, 1984, defendant RAFAEL CARO-QUINTERO, and other members of the Guadalajara Narcotics Cartel, possessed with intent to distribute approximately 10,000 tons of marijuana which were being cultivated in marijuana fields in Chihuahua, Mexico.

6. On or about February 5, 1985, co-conspirator Rene Martin Verdugo-Urquidez, and other members of the Guadalajara Narcotics Cartel, possessed two (2) tons of marijuana with intent to distribute.

COUNT SIX

[18 U.S.C. § 1201(c)]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

A. *Objects of the Conspiracy*

Beginning on a date unknown and continuing to on or about February 9, 1985, within Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL

ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, JUAN GILBERTO HERNANDEZ-PARRA, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, and coconspirators Rene Martin Verdugo-Urquidez, Raul Lopez-Alvarez, and others known and unknown to the Grand Jury, unlawfully and knowingly combined, conspired, confederated and agreed to commit an offense against the United States, namely:

> To knowingly and intentionally kidnap and hold for the purpose of interrogation, a Special Agent of the United States Drug Enforcement Administration, on account of the performance of his official duties, in violation of Title 18, United States Code, Sections 1201(a)(5) and 1201(c).

B. *Means of the Conspiracy*

The foregoing objects of the conspiracy were accomplished as follows:

1. Defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, JUAN GILBERTO HERNANDEZ-PARRA, ARMANDO PAVON-REYES, and other members of the Guadalajara Narcotics Cartel, developed a scheme and plan to kidnap, torture and interrogate Enrique Camarena-Salazar, a Special Agent with the United States Drug Enforcement Administration.

2. Defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, and

co-conspirators Rene Martin Verdugo-Urquidez and Raul Lopez-Alvarez and other members of the Guadalajara Narcotics Cartel, caused Special Agent Enrique Camarena-Salazar to be held against his will at 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

C. *Overt Acts*

The following overt acts, among others, were committed by the defendants and by their co-conspirators in furtherance of the foregoing conspiracy in Guadalajara, Jalisco, Mexico:

1. In or about October, 1984, in a meeting at a residence of defendant JAVIER BARBA-HERNANDEZ, in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, and others, discussed the kidnappling of Special Agent Enrique Camarena-Salazar.

2. In or about December, 1984, in a meeting at a residence of defendant ERNESTO FONSECA-CARRILLO in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JAVIER BARBA-HERNANDEZ, and others, had a discussion concerning Special Agent Enrique Camarena-Salazar.

3. In or about December, 1984, defendant JUAN GILBERTO HERNANDEZ-PARRA, an agent with the Mexican Federal Judicial Police, was present at this meeting at defendant ERNESTO FONSECA-CARRILLO's residence in Guadalajara, Jalisco, Mexico.

4. In or about the first week of February, 1985, defendants RAFAEL CARO-QUINTERO, ERNESTO

FONSECA-CARRILLO, RUBEN ZUNO-ARCE and JAVIER BARBA-HERNANDEZ met at a residence of defendant JAVIER-BARBA-HERNANDEZ in Guadalajara, Jalisco, Mexico, and discussed the kidnapping and interrogation of Special Agent Enrique Camarena-Salazar.

5. On or about February 7, 1985, members of the Guadalajara Narcotics Cartel abducted Special Agent Enrique Camarena-Salazar.

6. Between on or about February 7, 1985, and February 9, 1985, defendant RAFAEL CARO-QUINTERO, and others, interrogated Special Agent Enrique Camarena-Salazar.

7. Between on or about February 7, 1985, and February 9, 1985, defendant SERGIO ESPINO VERDIN, a Comandante with the Directorate of Federal Security, and others, interrogated Special Agent Enrique Camarena-Salazar.

8. On or about February 8, 1985, defendant ERNESTO FONSECA-CARRILLO went to 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

9. On or about February 8, 1985, defendant JUAN JOSE BERNABE-RAMIREZ, a State Judicial Police Officer, went to 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

10. On or about February 8, 1985, defendant HUMBERTO ALVAREZ-MACHAIN went to 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

11. On or about February 8, 1985, co-conspirator Rene Martin Verdugo-Urquidez went to 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

12. On or about February 8, 1985, co-conspirator Raul Lopez-Alvarez, a State Judicial Police Officer, went to 881 Lope de Vega in Guadalajara, Jalisco, Mexico.

13. On or about February 10, 1985, defendant MIGUEL ANGEL FELIX-GALLARDO possessed at his residence in Guadalajara, Jalisco, Mexico, a photograph of Special Agent Enrique Camarena-Salazar.

COUNT SEVEN

[18 U.S.C. §§ 1201(a)(5), 2]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

Beginning on a date unknown and continuing to on or about February 9, 1985, in Guadalajara, Jalisco, Mexico, defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, MIGUEL ANGEL FELIX-GALLARDO, MANUEL IBARRA-HERRERA, MIGUEL ALDANA-IBARRA, RUBEN ZUNO-ARCE, JAVIER BARBA-HERNANDEZ, ARMANDO PAVON-REYES, JUAN GILBERTO HERNANDEZ-PARRA, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ, and co-conspirators Rene Martin Verdugo-Urquidez, Raul Lopez-Alvarez, and others known and unknown to the Grand Jury, did aid, abet, counsel, induce, procure, cause and otherwise willfully participate in the abduction and holding for the purpose of interrogation of Enrique Camarena-Salazar, a Special Agent with the Drug Enforcement Administration, such acts having been done while Special Agent Enrique Camarena-Salazar was engaged in, and on account of, the performance of his official duties, in violation of Title 18, United States Code, Sections 1201(a)(5) and 2.

COUNT EIGHT

[18 U.S.C. §§ 1111(a), 1114, 2]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

On or about February 9, 1985, in Guadalajara, Jalisco, Mexico, Enrique Camarena-Salazar, an officer and employee of the Drug Enforcement Administration, was murdered on account of the performance of his official duties as a Special Agent of the Drug Enforcement Administration, said murder having taken place in and during the course of the perpetration of his kidnapping. Defendants RAFAEL CARO-QUINTERO, ERNESTO FONSECA-CARRILLO, JUAN RAMON MATTA-BALLESTEROS, SERGIO ESPINO-VERDIN, HUMBERTO ALVAREZ-MACHAIN, JUAN JOSE BERNABE-RAMIREZ and co-conspirators Rene Martin Verdugo Urquidez, Raul Lopez-Alvarez, and others known and unknown to the Grand Jury, willfully perpetrated the kidnapping and holding for interrogation of Enrique Camarena-Salazar, on account of the performance of his official duties as a Special Agent of the Drug Enforcement Administration, by aiding, abetting, counseling, inducing, procuring, causing and otherwise willfully participating in said kidnapping, in violation of Title 18, United States Code, Sections 1111, 1114, and 2.

COUNT NINE

[18 U.S.C. § 3]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

On or about February 9, 1985, in Guadalajara, Jalisco, Mexico, defendants- MANUEL IBARRA-HERRERA, JUAN JOSE BERNABE RAMIREZ and ARMANDO PAVONE-REYES, and co-conspirator Raul Lopez-Alvarez, knowing that defendant RAFAEL CARO-QUINTERO aided, abetted, counseled, induced, procured, caused and otherwise willfully participated in the kidnapping and murder of Enrique Camarena-Salazar and Alfredo Zavala-Avelar, in violation by defendant RA-

FAEL CARO-QUINTERO of Title 18, United States Code, Sections 1111, 1114, 1202(a)(5), 1959 and 2, did knowingly and willfully receive, comfort and assist defendant RAFAEL CARO-QUINTERO in order to hinder and prevent his apprehension, trial and punishment, in violation by defendants MANUEL IBARRA-HERRERA, JUAN JOSE BERNABE-RAMIREZ and ARMANDO PAVON-REYES and co-conspirator Raul Lopez-Alvarez, of Title 18, United States Code, Section 3.

COUNT TEN

[18 U.S.C. § 3]

The general allegations of this Sixth Superseding Indictment are realleged in this count and incorporated herein by reference.

From in or about February, 1985, through April 4, 1985, in Mexico, Costa Rica and elsewhere, defendants INES CALDERON-QUINTERO and ALBINO BAZAN-PADILLA, knowing that defendant RAFAEL CARO-QUINTERO aided, abetted, counseled, induced, procured, caused and otherwise willfully participated in the kidnapping and murder of Special Agent Enrique Camarena-Salazar and Alfredo Zavala-Avelar in violation by RAFAEL CARO-QUINTERO of Title 18, United States Code, Sections 1111, 1114, 1201(a)(5), 1959 and 2, did knowingly and willfully receive, comfort and assist defendant RAFAEL CARO-QUINTERO in order to hinder and prevent his apprehension, trial and punishment, in violation by defendants INES CALDERON-QUINTERO and ALBINO-BAZAN-PADILLA, of Title 18, United States Code, Section 3.

A TRUE BILL

/s/

Foreperson

/s/ Robert L. Brosio
ROBERT L. BROSIO
United States Attorney

DIPLOMATIC NOTE FROM THE EMBASSY OF MEXICO TO THE STATE DEPARTMENT APRIL 18, 1990

No. 0336

UNOFFICIAL TRANSLATION

The Embassy of Mexico presents its compliments to the State Department and wishes to refer to the recent apprehension in Mexican territory and transfer to El Paso of the Mexican citizen Humberto Alvarez Machain.

According to the information that the Mexican authorities have, there is the assumption that Mr. Alvarez Machain has been kidnapped in Mexico and illegally transferred to the United States territory, with the participation of U.S. authorities.

Due to the above, the Embassy of Mexico, upon specific instructions from its Government, requests to the Department of State a detailed report and the corresponding clarification about the possible participation of U.S. authorities in Mr. Humberto Alvarez Machain's kidnap and transfer to the United States. The Mexican Government is making a scrupulous investigation about this case.

The State Department is obviously aware that if it is proven that these actions were performed with the illegal participation of U.S. authorities, the binational cooperation in the fight against drug trafficking will be endangered, since, as it is of your knowledge, it is the exclusive responsibility of the Mexican authorities the fight against drug trafficking and criminal organizations within the Mexican territory.

Due to the seriousness of this case, the Embassy of Mexico will appreciate a prompt answer and avails itself of this opportunity to renew to the Department of State the assurances of its consideration.

Washington, D.C. April 18, 1990.

To the Department of State
Washington, D.C.

No. 0336

La Embajada de Mexico saluda al Departamento de Estado y desea referirse a la reciente detencion en territorio mexicano y traslado a la ciudad de El Paso, del ciudadano mexicano, Dr. Humberto Alvarez Machain.

De acuerdo con la informacion con que cuentan las autoridades mexicanas, existe la presuncion de que el señor Alvarez Machain haya sido secuestrado en Mexico y trasladado ilegalmente a territorio de los Estados Unidos, con participacion de autoridades norteamericanas.

En virtud de lo anterior, la Embajada de Mexico, por instrucciones expresas de su Gobierno, solicita al Departamento de Estado un informe detallado y las explicaciones pertinentes sobre la posible participacion de autoridades norteamericanas en el secuestro y traslado a Estados Unidos del señor Alvarez Machain. Por su parte, el Gobierno de Mexico esta llevando a cabo una minuciosa investigacion sobre este caso.

No escapara al reconocido buen criterio del Departamento de Estado que, de comprobarse la participacion ilegal de autoridades norteamericanas en estos hechos, se pone en peligro la cooperacion binacional en la lucha contra el narcotrafico, pues como es de su conocimiento, corresponde exclusivamente a las autoridades mexicanas la responsabilidad del combate al narcotrafico y a las organizaciones criminales dentro del territorio de Mexico.

Al agredecer al Departamento de Estado una pronta respuesta en virtud de la seriedad de estos hechos, la Embajada de Mexico aprovecha la ocasion para reiterarle las seguridades de su consideracion.

Washington, D.C., 18 de abril de 1990.

Al Departmento de Estado
Washington, D.C.

DIPLOMATIC NOTE FROM THE EMBASSY OF MEXICO TO THE STATE DEPARTMENT MAY 16, 1990

UNOFFICIAL TRANSLATION

The Embassy of Mexico presents its compliments to the State Department and wishes to refer to the apprehension in Mexican territory and the illegal transfer to the United States of Dr. Humberto Alvarez Machain.

The Government of Mexico considers the kidnapping of Dr. Alvarez Machain and his transfer from Mexican territory to the United States of America were carried out with the knowledge of persons working for the U.S. government, in violation of the procedure established in the extradition treaty in force between the two countries.

Accordingly, the procedure followed by the kidnappers and transporters of Dr. Alvarez Machain, was in violation of articles 14 and 16 of the Political Constitution of the United Mexican States, which establishes the right of due process and the equal protection under the law in connection with criminal matters. None of those constitutional rights were observed by the kidnappers and transporters.

As a consequence of those violations, which violate both the mexican Constitutional Law, as well as International Law, the corresponding Mexican authorities have already initiated a criminal action proceedings in accordance with mexican law, against the intellectual and material perpetuators of the illegal kidnapping and transfer to the United States of Dr. Humberto Alvarez Machain, because it is deemed that in such a case, the crimes of kidnapping, false imprisonment and criminal association were committed. In due time, the Mexican Government will request from the Government of the United States of America the extradition of the individuals involved in the perpetration of those crimes, if they could be found in territory of the United States of America, in accordance

with the terms of the existing Extradition Treaty in both Countries.

The Embassy of Mexico, upon specific instructions from its Government, requests to the Department of State its intervention before the corresponding authorities so that Dr. Humberto Alvarez Machain be returned back to Mexico in order to be investigated regarding his probable participation in the crimes whose investigation and prosecution correspond to the Mexican Government. The Mexican Government respectfully requests the collaboration of the Government of the United States of America in order that such individual be tried and sentenced in Mexico with absolute respect to the mexican laws in connection with the crimes in which Dr. Alvarez Machain has participated.

The Embassy of Mexico avails this opportunity to renew to the Department of States the assurances of its consideration.

Washington, D.C., May 16, 1990.

No. 0419

La Embajada de México saluda atentamente al Departamento de Estado y se permite hacer referencia al secuestro en territorio mexicano y traslado ilegal a Los Estados Unidos del Dr. Humberto Alvarez Machain.

El gobierno de México considera que el secuestro y traslado de territorio mexicano al de los Estados Unidos de América del Dr. Alvarez Machain, se realizó con el conocimiento de algunas personas al servicio del gobierno de los Estados Unidos y en contravención al procedimiento establecido en el Tratado de Extradición vigente entre ambos países.

De la misma manera el procedimiento seguido por los captores y trasladantes del Dr. Alvarez Machain, fué violatorio de los artículos 14 y 16 de la Constitución Política de los Estados Unidos Mexicanos, que son los que establecen las guarantías de debido procedimiento legal para las detenciones y de la audiencia en los procesos de carácter penal. Ni una ni otra de tales garantías fué respetada por los captores y trasladantes.

Como consecuencia de estas violaciones, que afectan tanto al derecho constitucional mexicano como al derecho internacional, las autoridades mexicanas competentes ya han iniciado los procedimientos penales que en México deben llevarse a efecto, contra los autores intelectuales y materiales del secuestro y traslado ilegal a los Estados Unidos del Dr. Humberto Alvarez Machain, ya que se considera que en el caso se han dado los delitos de privacíon ilegal de la libertad en forma de secuestro y asociación delictuosa, y en su oportunidad el gobierno mexicano solicitará al gobierno de los Estados Unidos de América la extradición de las personas involucradas en la comisión de dichos delitos y que se encuentren en territorio de los Estados Unidos de América, conforme al Tratado de Extradición vigente entre ambos países.

En consecuencia, la Embajada de México siguiendo instrucciones precisas de su gobierno, solicita al Depart-

mento de Estado su intervención ante las autoridades competentes, a efecto de que sea devuelto el Dr. Humberto Alvarez Machain, para que se someta a la investigación sobre su posible participación en delitos cuya investigación y persecución corresponden al gobierno mexicano, por lo que se exhorta respetuosamente al gobierno norteamericano para que preste su colaboración, para que dicho individuo sea juzgado y sentenciado con respeto absoluto a las leyes mexicanas, respecto de aquellos delitos en los que haya participado el citado Dr. Alvarez Machain.

La Embajada de México aprovecha la oportunidad para renovar al Departamento de Estado, las seguridades de su más atenta consideración.

Washington, D.C. 16 de mayo de 1990.

Al Departmento de Estado
Washington, D.C.

REQUEST OF THE UNITED MEXICAN STATES TO THE UNITED STATES FOR THE PROVISIONAL DETENTION OF ANTONIO GARATE BUSTAMANTE

UNOFFICIAL TRANSLATION

July 19, 1990
Washington, D.C.

Excellency:

On behalf of my Government, I have the honor of referring to the Extradition Treaty between the United Mexican States and the United States of America, in order to inform Your Excellency's Government that Mexican authorities request the provisional detention, for extradition purposes, of ANTONIO GARATE BUSTAMANTE, according to Articles 1 and 2, and especially Article 11, of the above Treaty. The reason for this request is that the above mentioned person is probably responsible for the crime Illegal Deprivation of Liberty in its Modelity of kidnapping. This crime fits into part 1 of the 2nd Article and the subparagraph number 4 of the Appendix to the Treaty. This crime was committed against Doctor Humberto Alvarez Machain for which reason criminal proceedings were filed against ANTONIO GARATE BUSTAMENTE or JOSE ANTONIO GARATE BUSTAMANTE which resulted in Penal Action 118/90 before the First Criminal Judge of the Federal District in the State of Jelisco, and a warrant of arrest issued on July 9, 1990.

The above detention is requested following the request to the Embassy by the Mexican Secretariat of Foreign Relations in its official letter 75044, dated July 16, 1990. The pertinent sections of said note are transcribed below by the undersigned—the Ambassador of Mexico to the United States of America—as if they were his own writing, for whatever legal purposes they may be needed:

His Excellency
James A. Baker, III
Secretary of State
Washington, D.C.

The Office of the Attorney General of Mexico sent note DA1/666/90, dated July 13, 1990, with basis on the Articles 102 and 119 of the Political Constitution of the United Mexican States, Article 11 of the Extradition Treaty currently in force between the United Mexican States and the United States of America, and on Article 2, part VII, Article 9, part II, of the Internal Regulations of the Mexican Office of the Attorney General, Article 4 of the Penal Code for the Federal District in Common Law Matters and for the Republic in Federal Law Matters, and lastly in the 3rd Article of the International Extradition Act, requesting that, through diplomatic conducts, solicits the provisional detention, for extradition purposes, of ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO BUSTAMANTE and HECTOR BERRELLEZ or ARTURO E. BERRELLEZ. The First Criminal Judge of the Federal District in the State of Jalisco ordered the apprehension of these men on July 9, 1990 according to the Penal Action number 118/90, for their probable responsibility in the crime of kidnapping. The crime is sanctioned by the Articles 336, parts I, II, and V in relation to the stipulation 13, parts I, IV, and V of the Penal Code for the Federal District in Common Law Matters and for the Republic in Federal Law Matters.

The request is based fundamentally on Article 11 of the Treaty in mention, considering also pertinent part I of Article 2 and the subparagraph number 4 of the Appendix. The crime mentioned above is of a serious nature since it is punishable in both countries with the total loss of freedom for more than one year.

The Office of the Attorney General of Mexico has named the delinquent acts of the accused who are now found to be avoiding the Mexican Justice in the following way:

On April 2, 1990, Doctor Humberto Alvarez Machain was in his medical consulting room situated in 1853 Mexicaltzingo, in the city of Guadalajara, Jalisco. Shortly after he had seen one of his patients, with the surname

of Rodriguez, five men came into his office holding guns. These men who passed themselves as police agents, detained Alvarez Machain while at the same time disconnecting the telephone cables.

Immediately after, the accused drove the victim to Silao, Guanajuato, and from there they drove to the city of Leon of the same state so as to depart by airplane the next day, April 3, 1990, to El Paso, Texas, United States of America. The airplane used, which was brown with stripes of a darker brown, was a Turbo Commander, Model 810, with registration number XA-PEW, for 6 people, and was property of an agency denominated Aerojalisco. The plane was hired out to the kidnappers who followed the route Guadalajara-Leon-Cuidad Juarez-Guadalajara. Previous authorization for landing at the airport had been granted and the accused landed at the airport of El Paso, Texas, United States of America.

On April 28, 1990, Jorge Covarrubias Manrique, before the Agent of the Public Federal Ministry, admitted to having participated in the kidnapping of Doctor Alvarez Machain. He also admitted to have been an operative team member of the Drug Enforcement Administration (D.E.A.), ordered through ANTONIO GARATE BUSTAMENTE or JOSE ANTONIO GARATE BUSTAMANTE by HECTOR BERRELLEZ or ARTURO E. BERRELLEZ.

In the declaration presented by ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE, before the Tribunal Judge of the District of the United States of America, in the case number CR87422(F)-ER, on May 25, 1990, he declared that the kidnapping of Humberto Alvarez Machain was approved by HECTOR BERRELLEZ, who admitted to this before the same authority.

From the above mentioned facts, it is presumed that ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE prepared the kidnapping of Doctor Humberto Alvarez Machain, which took

place on April 2, 1990 in the city of Guadalajara, Jalisco, in order to later transfer him to the United States of America. It is also presumed, according to testimony, that he did it under the approval of HECTOR BERRELLEZ who was superior to him in rank at the Drug Enforcement Administration (D.E.A.). For these reasons, the First Criminal Judge of the District in Penal Matters for the State of Jalisco, after relating these events with the elements of conviction reached by the Public Federal Ministry in the verification of the crime, considered that ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and HECTOR BERRELLEZ or ARTURO E. BERRELLEZ responsible for the illicit crime of ILLEGAL DEPRIVATION OF LIBERTY IN ITS MODALITY OF KIDNAPPING.

It is known that the above mentioned persons have been summoned for the judgment instituted against the victim, before the tribunal Judge of the District of the United States for the Central District of California. Therefore, for the localization of the above mentioned persons, we inform you that they are currently residing in, or around, Los Angeles, California.

For the purpose of identification, the Office of the Attorney General of Mexico proportions the following information of ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and annexes a photocopy of his photograph.

PLACE OF BIRTH:	AGUA CALIENTE, SINALOA, MEXICO
MARITAL STATUS:	MARRIED
AGE:	51 YEARS OLD
DATE OF BIRTH:	MAY 28, 1939
HAIR:	INSERTION OF CIRCULAR HAIR BETWEEN STRAIGHT AND ABUNDANT, GREYING BLACK
FOREHEAD:	LARGE
EYES:	BROWN
NOSE:	LARGE, DEEP, STRAIGHT, SLIGHTLY ELEVATED AND HORIZONTAL BASE

MOUTH:	SMALL WITH LARGE LIPS
CHIN:	VERTICAL INCLINATION, MEDIUM HEIGHT, MEDIUM WIDTH
EARS:	CONTOUR OF LOBE AT RIGHT ANGLE
COMPLEXION:	WHITE
BODY STRUCTURE:	MEDIUM
WEIGHT:	APPROXIMATELY 78 KILOS
HEIGHT:	1.73 METERS

The following information of HECTOR BERRELLEZ or ARTURO E. BERRELLEZ is also mentioned:

APPROXIMATE AGE:	43 TO 45 YEARS OLD
HEIGHT:	1.75 TO 1.78 METERS
BODY STRUCTURE:	ROBUST
HAIR:	CURLY, GREYING, AND SHORT
COMPLEXION:	WHITE
EYES:	LIGHT BROWN
EYELASHES:	CURLY
EYEBROWS:	ABUNDANT
NOSE:	STRAIGHT
MOUTH:	REGULAR
FACE:	ROUND
PARTICULAR SIGNS:	ON BOTH CHEEKS HE HAS SCARS FROM SMALLPOX OR ACNE.

The request for provisional detention is based on what is established by the Extradition Treaty, and therefore, the Office of the Attorney General of Mexico grants the promise of formalizing the application for extradition of ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and HECTOR BERRELLEZ or ARTURO E. BERRELLEZ, within the time limit established by the Treaty in reference and will start running when United States authorities succeed in apprehension, during which lapse we will continue to send personal data for better identification and faster localization.

In view of the considerations of law and of facts that the Social Federal Representation expresses, and because this petition satisfies the requisites stated in the Extradition Treaty, currently in force between our two countries, and also satisfies the established by the International Ex-

tradition Act, this Ministry of Foreign Affairs, with basis on part IV of article 15 of its Bylaws, requests your intervention to the effect that procedure of the extradition of the accused may begin. We would appreciate being informed of any advances made on this request.

The accused is a Mexican citizen.

As a result, and since the above transcript indicates the events and facts related to the crime of which ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE is accused of, provides their description and whereabouts in the United States, promises to formalize the extradition request, declares the existence of a warrant of arrest issued by the competent judicial authority against him, I wish to submit to Your Excellency this information, which I assure is true, and request the provisional detention in reference.

I wish to assure Your Excellency of my personal commitment to formalize the extradition request within the sixty day period, starting from the date on which the provisional detention, for extradition purposes, of the above mentioned person is confirmed. For which reason, I would appreciate being informed, as soon as possible, of the date when the sixty day period mentioned in the Extradition Treaty starts running.

The provisional detention is requested without detriment that by the established conducts in the Treaty it be possible to perfect a different application of the for crimes other than the one which is foundation of this request.

In view of the above, Mr. Secretary, and considering that this petition abides by the terms of the Extradition Treaty currently in force between the United Mexican States and the United States of America, I request your kind meditation in ensuring that these competent U.S. authorities, including the U.S. judicial authorities, take the necessary measures to detain ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE for his subsequent extradition, from the United States of America to Mexico.

In thanking Your Excellency in advance for your valuable assistance concerning this request, I take this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

GUSTAVO PETRICIOLI
Ambassador

[SEAL]

Washington, D.C., a 19 de julio de 1990.

Señor Secretario

En nombre de mi Gobierno, tengo a honra referirme al Tratado de Extradicion suscrito entre los Estados Unidos Mexicanos y los Estados Unidos de America, para solicitar formalmente al Gobierno de Vuestra Excelencia con base en los Articulos 1, 2 y, en particular, con fundamento en el Articulo 11 cel citago tratado, la detencion provisional con fines de extradicion del señor ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE a quien los autoridades mexicanas reclaman por su probable responsabilidad en la comision del delito de privacion ilegal de la libertad con caracter de secuestro mismo que encaja dentro de la fraccion del Articulo 2° y el inciso 4) de Apendice del Tratado de referencia, delito cometido en agravio del C Doctor Humberto Alvarez Machain, por cuya razon sele sigue la causa penal numero 118/90 ante el Juez Primero de Distrito en Materia Penal en el Estado de Jalisco, de la que resulto orden de aprehension en contra del reclamado, fechada el 9 de julio de 1990.

Lo anterior lo manifésto a usted en virtud de la gestion que me ecomiende la Secretaria de Relacions Exteriores del Gobierno, Mexicano, mediante el oficio numero 75044 de fecha 16 de julio de 1990, cuyo texto, para todos los efectos legales a que haya lugar, el que suscribe, Embajador de Mexico ante los Estados Unidos de America, hace suyo y transcribe en su parte conducente a continuacion.

"La Procuraduria General de la República, mediante oficio DAI-666/90, fechado el 13 del mes curso solicita, con base en los articulos 102 y 119 de la Constitución Politica de los Estados Unidos Mexicanos, en el articulo 11 del Tratado de Extradición celebrado entre nuestro pais y los Estados Unidos de América, y en los articulos 2 fracción VII, 9 fracción 11 de la Ley Organica de la Procuraduria General de la Republica, 4 del Codigo Penal

para el Distrito Federal en Materia del Fuero Comun y para toda la Republica en Materia del Fuero Federal y por ultimo en el articulo 3° de la Yey de Extradicion Internacional, que por los conductos diplomaticos se regulera al Gobierno de los Estados Unidos de America, la detencion provisional con fines de extradicion de ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE y HECTOR BERRELLEZ o ARTURO BERRELLEZ, contra de quienes el Juez Primero de Distrito en Material Penal en el Estado de Jalisco el 9 del mes y año en curso, en la causa penal numero 118/90, libro orden de aprehension en contra de los reclamados, por su probable responsabilidad en la comision del delito de privacion ilegal de la libertad con caracter de secuestro ilicito previsto y sancionado en los articulos 366 fraccion I, II y V en relacion con el precepto 13 fracciones I, IV y V del Codigo Penal para el Distrito Federal en Materia del Fuero Comun y para toda la Republica en Materia del Fuero Federal.

"La peticion se fundamenta basicamente en el articulo II del Tratado invocado, considerandose aplicable asimismo, la fraccion I del articulo 2° y el inciso 4) de su Apendice, ya que el delito imputado a los reclamados es punible en ambos paises, con una pena de privacion de la libertad mayor de un año.

"La Procuraduria General de la Republica efectua una relacion de hechos delictuosos imputados a los reclamados, quienes se ensuentran profugos de la Justicia Mexicana, en la forma sigulente.

"El 2 de abril de 1990, el C Doctor Humberto Alvarez Machain, se encontraba en el interior del consultorio medico de su propiedad ubic. do en Mexicaltzingo 1853, en la cuidad de Guadalajara, Jalisco, cuando minutos despues de haber atendido a una paciente de aselido Rodriguez, se presentaron cinco personas que portaban armas, mismas que detuvieron al citado Alvarez Machain, ostentandose como elementos de cuerpos policiacos, arrancando al mismo tiempo los cables telefonicos.

"Posteriormente, estas personas condujeron al secuestrado por via terrestre al Municipio de Silao, Estado de Guanajuato, y de alii a la ciudad de León en el mismo Estado, para al día siguiente, o sea el 3 de abril de 1990, trasladarlo por vía aérea de esa ciudad a El Paso, Texas, Estados Unidos de America, habiendose realizado el vuelo a bordo de un avión Turbo Comander, Modelo 810, color café claro con franjas color café obscuro, matriculo XA-PEW de seis plazas, propiedad de la empresa aérea denominada Aerojalisco, quien prestó el servicio solicitado por los secuestradores cubriendo la ruta guadalajara-León-Ciudad Juarez-Guadalajara, habiendose introducido, previn autorización de internamiento, a El Paso, Texas, Estados Unidos de America, aterrizando en el aeropuerto de ese lugar.

"Por declaración vertida por el C. Jorge Covarrubias Manrique, ante el Agente del Ministerio Público Federal, el 28 de abril de 1990, reconocio haber participado en el sequestro del Doctor Alvarez Machain, y que el mismo fue un operativo de la Drug Enforcement Administration (D.E.A.), ordenado a través de ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE por el señor HECTOR BERRELLEZ o ARTURO E. BERRELLEZ.

"Mediante declaracion emitida por ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE, ante el Juez del Tribunal de Distrito de los Estados Unidos de America, para el Distrito Central de California, en el caso numero CR87422(F)-ER, el 25 de mayo de 1990, declaro que el secuestro de Humberto Alvarez Machain, por el dirigido, fue aprobado por HECTOR BERRELLEZ, quien ante la misma autoridad confirmed este dicho.

"De los hechos antes referidos, se desprende que presuntivamente ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE acordo y preparo el secuestro del Doctor Humberto Alvarez Machain, y el 2 de abril de 1990, lo llevo a cabo en la ciudad de

Guadalajara, Jalisco, para posteriormente trasladario a los Estados Unidos de America, todo ello con la aprobacion de HECTOR BERRELLEZ, en su calidad de superior jerarquico dentro de la Drug Enforcement Administration (D.E.A.), por lo que la C Juez Primero de Distrito en Materia Penal en el Estados de Jalisco, al relacionar estos con los elementos de conviccion aportados por el Ministerio Publico Federal en la averiguacion de la comision del delito, considero que los CC ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE y HECTOR BERRELLEZ o ARTURO E. BERRELLEZ, como probables responsables en la comision del delito de PRIVACION ILEGAL DE LA LIBERTAD CON CARACTER DE SECUESTRO.

"Se tiene conocimiento de que los reclamados actualmente comparecer en el juicio instruido en contra del secuestrado, ante el Juez del Tribunal de Distrio de los Estados Unidos para el Distrito Central de California, por lo cual, para la localizacion de estos, se proporciona como su paradero la cludad de Los Angeles en ese Estado de California.

"Para efectos de identificacion, la Procuraduria General de la Republica proporciona la media filiacion de ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE y remite fotocopia simple de su fotografia.

LUGAR DE NACIMIENTO	AGUA CALIENTE, SINALOA, MEXICO
ESTADO CIVIL	CASADO
EDAD	51 AÑOS
FECHA DE NACIMIENTO	28-05-39
CABELLO	INSERCION DEL PELO CIRCULAR ENTRE LACIO Y ABUNDANTE, NEGRO ENTRECANO
FRENTE	GRANDE
OJOS	CAFE
NARIZ	GRANDE, PROFUNDA, RECTILINEA LIBERAMENTE ELEVADA Y BASE HORIZONTAL
BOCA	CHICA CON LABIOS GRUESOS

MENTON	INCLINACION VERTICAL, ALTURA MEDIANA, ANCHURA MEDIANA
OREJAS	CONTORNO DEL LOBULO EN ESCUADRA
TEZ	BLANCA
COMPLEXION	MEDIANA
PESO	78 KILOS APROXIMADAMENTE
ESTATURA	1.73 METROS

Asimismo, proporciona la media filiación de HECTOR BERRELLEZ o ARTURO E. BERRELLEZ:

EDAD APPROXIMADA	43 A 45 AÑOS
ESTATURA	1.76 a 1.78 METROS
COMPLEXION	ROBUSTA
CABELLO	ONDULADO, ENTRECANO Y RECORTADO
TEZ	BLANCA
OJOS	CAFE CLARO
PESTAÑAS	RIZADAS
CEJAS	POBLADAS
NARIZ	RECTA
BOCA	REGULAR
CARA	REDONDA
SEÑAS PARTICULARES	EN AMBAS MEJILLAS TIENE CICATRICES DE VIRUELA O ACNE

"Por otra parte y en cumplimiento de lo previsto en la Tratado de Extradicion invocado, la Procuradura General de la Republica otorga la promesa de formalizar la SOLICITUD DE EXTRADICION de los señores ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BERRELLEZ o ARTURO E. BERRELLEZ dentro del termino establecido por el Instrumento Internacional referido, contado a partir de la fecha en que las autoridades estadounidenses logren su detención, independientemente de aportarse mayores datos personales para su mejor identificacion y más pronta localizacion.

En virtud de las consideraciones de derecho y de hecho que expresa la Representación Social Federal ya invocada, y en razón de que se satisfacen los requistos del Tratado de Extradicion celebrado entre ampos paises y satisface ade-

mas establecido en la Ley de Extradición Internacional por lo anterior, esta Cancilleria con base en la fraccion IV, articulo 15 del Reglamento interior de la misma, solicita su intervencion para efecto de que se inicie el procedimiento de extradición de los requeridos, agradeciendo se nos informe respecto de los avances y gestiones que se efectuen al respecto."

El reclamado es ciudadano mexicano.

Por lo anterior, toda vez que en el documento que arriba transcribo se expresan actos y hechos relacionados con el delito que se imputa al reclamado, su descripcion y su paredero en territorio estadounidense, asi como la promesa de formalizar la solicitud de extradición respectiva y la existencia de una orden de aprehensión librada por autoricad judicial competente en su contra, hechos que me permito presentarios como veridicos que son ante Vuestra Excelencia, solicito la presente detención provisional.

Hago mia la promesa de formalizar la solicitud de extradicion y que dentro del termino de sesentas dias, a partir de la fecha en que se me confirme la detención provisional del sujeto reclamado, presentaré en sus terminas, la solicitud formal correspondiénte; por lo que le agradecere communicarme, a la brevetad posible, la fecha precisa en que comience a correr el plazo a que se hace mención en el Tratado de referencia.

La detención provisional se solicita sin perjuicio de que por los conductos establecidos en el propio Tratado se pueda perfeccionar solicitud distinta respecto del presunto extraditado por delitos distintos a los que son fundamento de esta solicitud.

Por loarriba señalado, Señor Secretario, al encontrarse la peticion que hago, dentro de los supuestos descritos por el Tratado de Extradicion vigente entre nuestros dos paises, ruego a Usted su amable concurso para obtener de la autoridades estadounidenses competentes en la materia, incluso de las judiciales, el que se tomen las medidas

necesarias para obtener la aprehension confines ulteriores de extradición desde los Estados Unidos de America a México, del reclamado ANTONIO GARATE o JOSE ANTONIO GARATE BUSTAMANTE.

Al agradecer a Vuestra Excelencia, anticipadamente, su valioso concurso en la gestión solicitada, hago propicia la ocasión para renovarle las seguridades de mi más alta y distinguida consideración.

/s/ Gustavo Petricioli
GUSTAVO PETRICIOLI
Embajador

REQUEST OF THE UNITED MEXICAN STATES TO THE UNITED STATES FOR THE PROVISIONAL DETENTION OF HECTOR BERRELLEZ

UNOFFICIAL TRANSLATION

July 19, 1990
Washington, D.C.

Excellency:

On behalf of my Government, I have the honor of referring to the Extradition Treaty between the United Mexican States and the United States of America, in order to inform Your Excellency's Government that Mexican authorities request the provisional detention, for extradition purposes, of HECTOR BERRELLEZ or ARTURO E. BERRELLEZ, according to Articles 1 and 2, and especially Article 11, of the above Treaty. The reason for this request is that the above mentioned person is probably responsible for the crime illegal Deprivation of Liberty in its Modality of kidnapping. This crime fits into part 1 of the 2nd Article and the subparagraph number 4 of the Appendix to the Treaty. This crime was committed against Doctor Humberto Alvarez Machain for which reason criminal proceedings were filled against HECTOR BERRELLEZ or ARTURO E. BERRELLEZ which resulted in Penal Act 118/90 before the First Criminal Judge of the Federal District in the State of Jalisco, and a warrant of arrest issued on July 9, 1990.

The above detention is requested following the request to the Embassy by the Mexican Secretariat of Foreign Relations in its official letter 7 5004, dated July 16, 1990. The pertinent sections of said note are transcribed below by the undersigned—the Ambassador of Mexico to the United States of America—, as if they were his own writing, for whatever legal purposes they may be needed:

His Excellency
James A. Baker, III
Secretary of State
Washington, D.C.

. . . The Office of the Attorney General of Mexico sent note DAI/666/90, dated July 13, 1990, with basis on the Articles 102 and 119 of the Political Constitution of the United Mexican States, Article 11 of the Extradition Treaty currently in force between the United Mexican States and the United States of America, and on Article 2, part VII, Article 9, part II, of the Internal Regulations of the Mexican Office of the Attorney General, Article 4 of the Penal Code for the Federal District in Common Law Matters and for the Republic in Federal Law Matters, and lastly in the 3rd Article of the International Extradition Act, requesting that, through diplomatic conducts, solicits the provisional detention, for extradition purposes, of ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and HECTOR BERRELLEZ or ARTURO E. BERRELLEZ. The First Criminal Judge of the Federal District in the States of Jalisco ordered the apprehension of these men on July 9, 1990 according to the Penal Action number 118/90, for their probable responsibility in the crime of kidnapping. The crime is sanctioned by the Articles 336, parts I, II, and V in relation to the stipulation 13, parts I, IV and V of the Penal Code for the Federal District in Common Law Matters and for the Republic in Federal Law Matters.

The request is based fundamentally on Article 11 of the Treaty in mention, considering also pertinent part I of Article 2 and the subparagraph number 4 of the Appendix. The crime mentioned above is of a serious nature since it is punishable in both countries with the total loss of freedom for more than one year.

The Office of the Attorney General of Mexico has named the delinquent acts of the accused who are now found to be avoiding the Mexican Justice in the following way:

On April 2, 1990, Doctor Humberto Alvarez Machain was in his medical consulting room situated in 1863 Mexicaltzingo, in the city of Guadalajara, Jalisco. Shortly after he had seen one of his patients, with the surname of Rodriguez, five men came into his office holding guns.

These men who passed themselves as police agents, detained Alvarez Machain while at the same time disconnecting the telephone cables.

Immediately after, the accused drove the victim to Silao, Guanajuato, and from there they drove to the city of Leon of the same state so as to depart by airplane the next day, April 3, 1990, to El Paso, Texas, United States of America. The airplane used, which was brown with stripes of a darker brown, was a Turbo Commander, Model 810, with registration number XA-PEW, for 6 people, and was property of an agency denominated Aerojalisco. The plane was hired out to the kidnappers who followed the route Guadalajara—Leon—Ciudad Juarez—Guadalajara. Previous authorization for landing at the airport had been granted and the accused landed at the airport of El Paso, Texas, United States of America.

On April 28, 1990, Jorge Covarrubias Manrique, before the Agent of the Public Federal Ministry, admitted to having participated in the kidnapping of Doctor Alvarez Machain. He also admitted to have been an operative team member of the Drug Enforcement Administration (D.E.A.), ordered through ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE by HECTOR BERRELLEZ or ARTURO E. BERRELLEZ.

In the declaration presented by ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE, before the Tribunal Judge of the District of the United States of America, in the case number CR87422(F)-ER, on May 25, 1990, he declared that the kidnapping of Humberto Alvarez Machain was approved by HECTOR BERRELLEZ, who admitted to this before the same authority.

From the above mentioned facts, it is presumed that ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE prepared the kidnapping of Doctor Humberto Alvarez Machain, which took

place on April 2, 1990 in the city of Guadalajara, Jalisco, in order to later transfer him to the United States of America. It is also presumed, according to testimony, that he did it under the approval of HECTOR BERRELLEZ who was superior to him in rank at the Drug Enforcement Administration (D.E.A.). For these reasons, the First Criminal Judge of the District in Penal Matters for the State of Jalisco, after relating these events with the elements of conviction reached by the Public Federal Ministry in the verification of the crime, considered that ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and HECTOR BERRELLEZ or ARTURO E. BERRELLEZ responsible for the illicit crime of ILLEGAL DEPRIVATION OF LIBERTY IN ITS MODALITY OF KIDNAPPING

It is known that the above mentioned persons have been summoned for the judgment instituted against the victim, before the tribunal Judge of the District of the United States for the Central District of California. Therefore, for the localization of the above mentioned persons, we inform you that they are currently residing in, or around, Los Angeles, California.

For the purpose of identification, the Office of the Attorney General of Mexico proportions the following information of ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and annexes a photocopy of his photograph.

PLACE OF BIRTH	AGUA CALIENTE, SINALOA, MEXICO
MARITAL STATUS:	MARRIED
AGE:	51 YEARS OLD
DATE OF BIRTH:	MAY 28, 1939
HAIR:	INSERTION OF CIRCULAR HAIR BETWEEN STRAIGHT AND ABUNDANT, GREYING BLACK
FOREHEAD:	LARGE
EYES:	BROWN
NOSE:	LARGE, DEEP, STRAIGHT, SLIGHTLY ELEVATED AND HORIZONTAL BASE

MOUTH:	SMALL WITH LARGE LIPS
CHIN:	VERTICAL INCLINATION, MEDIUM HEIGHT, MEDIUM WIDTH
EARS:	CONTOUR OF LOBE AT RIGHT ANGLE
COMPLEXION:	WHITE
BODY STRUCTURE:	MEDIUM
WEIGHT:	APPROXIMATELY 78 KILOS
HEIGHT:	1.73 METERS

The following information of HECTOR BERRELLEZ or ARTURO E. BERRELLEZ is also mentioned:

APPROXIMATE AGE:	43 TO 45 YEARS OLD
HEIGHT:	1.75 TO 1.78 METERS
BODY STRUCTURE:	ROBUST
HAIR:	CURLY, GREYING, AND SHORT
COMPLEXION:	WHITE
EYES:	LIGHT BROWN
EYELASHES:	CURLY
EYEBROWS:	ABUNDANT
NOSE:	STRAIGHT
MOUTH:	REGULAR
FACE:	ROUND
PARTICULAR SIGNS:	ON BOTH CHEEKS HE HAS SCARS FROM SMALLPOX OR ACNE.

The request for provisional detention is based on what is established by the Extradition Treaty, and therefore, the Office of the Attorney General of Mexico grants the promise of formalizing the application for extradition of ANTONIO GARATE BUSTAMANTE or JOSE ANTONIO GARATE BUSTAMANTE and HECTOR BERRELLEZ or ARTURO E. BERRELLEZ, within the limit established by the Treaty in reference and will start running when United States authorities succeed in the apprehension, during which lapse we will continue to send personal data for better identification and faster localization.

In view of the considerations of law and of facts that the Social Federal Representation expresses, and because this petition satisfies the requisites stated in the Extradition Treaty, currently in force between our two countries, and also satisfies the established by the Interna-

tional Extradition Act, this Ministry of Foreign Affairs, with basis on part IV of article 15 of its Bylaws, requests your intervention to the effect that procedure of the extradition of the accused may begin. We would appreciate being informed of any advances made on this request.

As a result, and since the above transcript indicates the events and facts related to the crime of which HECTOR BERRELLEZ or ARTURO E. BERRELLEZ is accused of, provides their description and whereabouts in the United States, promises to formalize the extradition request, declares the existence of a warrant of arrest issued by the competent judicial authority against him, I wish to submit to Your Excellency this information, which I assure is true, and request the provisional detention in reference.

I wish to assure Your Excellency of my personal commitment to formalize the extradition request within the sixty day period, starting from the date on which the provisional detention, for extradition purposes, of the above mentioned person is confirmed. For which reason, I would appreciate being informed, as soon as possible, of the date when the sixty day period mentioned in the Extradition Treaty starts running.

The provisional detention is requested without detriment that by the established conducts in the Treaty it be possible to perfect a different application of the for crimes other than the one which is foundation of this request.

In view of the above, Mr. Secretary, and considering that this petition abides by the terms of the Extradition Treaty currently in force between the United Mexican States and the United States of America, I request your kind meditation in ensuring that the competent U.S. authorities, including the U.S. judicial authorities, take the necessary measures to detain HECTOR BERRELLEZ or ARTURO E. BERRELLEZ for his subsequent extradition, from the United States of America to Mexico.

In thanking Your Excellency in advance for your valuable assistance concerning this request, I take this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

Gustavo Petricioli
Ambassador

His Excellency
James A. Baker, III
Secretary of State
Washington, D.C.

APPENDIX C-1

Washington, D.C., a 19 de julio de 1990.

Señor Secretario:

En nombre de mi Gobierno, tengo a honra referirme al Tratado de Extradición suscrito entre los Estados Unidos Mexicanos y los Estados Unidos de América, para solicitar formalmente al Gobierno de Vuestra Excelencia, con base en los Articulos 1, 2 y, en particular, con fundamento en el Articulo 11 del citado tratado, la detención provisional con fines de extradición del señor HECTOR BERRELLEZ O ARTURO E. BERRELLEZ a quien las autoridades mexicanas reclaman por su probable responsabilidad en la commisión del delito de privación ilegal de la libertad con carácter de secuestro mismo que encaja dentro de la fracción 1 del Articulo 2° y el inciso 4) del Apéndice del Tratado de referencia, delito cometido en agravio del C. Doctor Humberto Alvarez Machain, por cuya razón se le sigue la causa penal numero 118/90 ante el Juez Primero de Distrito en Materia Penal en el Estado de Jalisco, de la que resultó orden de aprehensión en contra del reclamado, fechada el 9 de julio de 1990.

Lo anterior lo manifiesto a used en virtud de la gestión que me encomienda la Secretaria de Relaciones Exteriores del Gobierno Mexicano, mediante el oficio numero 7 5044 de fecha 16 de julio de 1990, cuyo texto, para todos los efectos legales a que haya lugar, el que suscribe, Embajador de Mexico ante los Estados Unidos de América, hace suyo y transcribe en su parte conducente a continuación:

"La Procuraduria General de la República, mediante oficio DAI-666/90, fechado el 13 del mes en curso solicita, con base en los articulos 102 y 119 de la Constitución Politica de los Estados Unidos Mexicanos, en el articulo 11 del Tratado de Extradición celebrado entre nuestro pais y los Estados Unidos de América, y en los

articulos 2 fracción VII, 9 fracción 11 de la Ley Orgánica de la Procuraduria General de la Republica, 4 del Código Penal para el Distrito Federal en Materia del Fuero Común y para toda la República en Materia del Fuero Federal y por ultimo en el articulo 3° de la Ley de Extradición Internacional, que por los conductos diplomáticos se requiera al Gobierno de los Estados Unidos de América, la detención provisional con fines de extradición de ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE y HECTOR BERRELLEZ o ARTURO E. BERRELLEZ, contra de quienes el Juez Primero de Distrito en Materia Penal en el Estado de Jalisco el 9 del mes y año en curso, en la causa penal número 118/90, libró orden de aprehensión en contra de los reclamados, por su probable responsabilidad en la comisión del delito de privación ilegal de la libertad con carácter de secuestro, ilicito previsto y sancionado en los articulos 366 fracción I, II y V en relación con el precepto 13 fracciones I, IV y V del Código Penal para el Distrito Federal en Materia del Fuero Común y para toda la Repúblicaa en Materia del Fuero Federal.

"La petición se fundamenta básicamente en el artículo II del Tratado invocado, considerándose applicable asimismo, la fracción I del articulo 2° y el inciso 4) de su Apéndice, ya que el delito imputado a los reclamados es punible en ambos países, con una pena de privación de la libertad mayor de un año.

"La Procuraduría General de la Republica efectuá una relación de hechos delictuosos imputados a los reclamados, quienes se encuentran prófugos de la Justicia Mexicana, en la forma siguiente.

"El 2 de abril de 1990, el C. Doctor Humberto Alvarez Machain, se encontraba en el interior del consultorio médico de su propiedad ubicado en Mexicaltzino 1853, en la ciudad de Guadalajara, Jalisco, cuando minutos después de haber atendido a una paciente de appellido Rodríguez, se presentaron cinco personas que portaban armas, mis-

mas que detuvieron al citado Alvarez Machain, ostentándose como elementos de cuerpos policiacos, arrancando al mismo tiempo los cables telefónicos.

"Posteriormente, estas personas condujeron al secuestrado por via terrestre al Municipio de Silao, Estado de Guanajuato, y de allí a la ciudad de León en el mismo Estado, para al día siguiente, o sea el 3 de abril de 1990, trasladarlo por vía aérea de esa ciudad a El Paso, Texas, Estados Unidos de América, habiéndose realizado el vuelo a bordo de un avión Turbo Comander, Modelo 810, color café claro con frajas color café obscuro, matriculo XA-PEW de seis plazas, propiedad de la empresa aérea denominada Aerojalisco, quien prestó el servicio solicitado por los secuestradores cubriendo la ruta Guadalajara-León-Cuidad Juárez-Guadalajara, habiéndose introducido, previa autorización de internamiento, a El Paso, Texas, Estados Unidos de América, aterrizando en el aeropuerto de ese lugar.

"Por declaración vertida por el C. Jorge Covarrubias Manrique, ante el Agente del Ministerio Público Federal, el 28 de abril de 1990 reconoció haber participado en el secuestro del Doctor Alvarez Machain, ye que el mismo fue un operativo de la Drug Enforcement Administration (D.E.A.), ordenado a través de ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE por el señor HECTOR BERRELLEZ o ARTURO E. BERRELLEZ.

"Mediante declaración emitida por ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE, ante el Juez del Tribunal de Distrito de los Estados Unidos de América, para el Distrito Central de California, en el caso número CR87422(F)ER, el 25 de mayo de 1990, declaró que el secuestro de Humberto Alvarez, por él dirigido, fue aprobabo por HECTOR BERRELLEZ, quien ante la misma autoridad confirmó este dicho.

"De los hechos antes referidos, se desprende que presuntivamente ANTONIO GARATE BUSTAMANTE o

JOSE ANTONIO GARATE BUSTAMANTE acordó y preparó el secuestro del Doctor Humberto Alvarez Machain, y el 2 de abril de 1990, lo llevó a cabo en la ciudad de Guadalajara, Jalisco, para posteriormente trasladarlo a los Estados Unidos de América, todo ello con la aprobción de HECTOR BERRELLEZ, en su calidad de superior jerárquico dentro de la Drug Enforcement Administration (D.E.A.), por lo que la C. Juez Primero de Distrito en Materia Penal en el Estado de Jalisco, al relacionar éstos con los elementos de convicción aportados por el Ministerio Público Federal en la averiguación de la comisión del delito, consideró que los CC. ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMANTE y HECTOR BERRELLEZ o ARTURO E. BERRELLEZ, como probables responsables en la comisión del delito de PRIVACION ILEGAL DE LA LIBERTAD CON CARACTER DE SECUESTRO.

"Se tiene conocimiento de que los reclamados actualmente comparecen en el juicio instruído en contra del secuestrado, ante el Juez del Tribunal de Distrito de los Estados Unidos para el Distrito Central de California, por lo cual, para la lacolización de éstos, se proporciona como su paradero la ciudad de Los Angeles en ese Estado de California.

"Para efectos de identificación, la Procuraduria General de la República proporciona la media filiación de ANTONIO GARATE BUSTAMANTE o JOSE ANTONIO GARATE BUSTAMENTE y remite fotocopia simple de su fotografía.

LUGAR DE NACIMIENTO	AGUA CALIENTE, SINALOA, MEXICO
ESTADO CIVIL	CASADO
EDAD	51 AÑOS
FECHA DE NACIMIENTO	28-05-39
CABELLO	INSERCION DEL PELO CIRCULAR ENTRE LACIO Y ABUNDANTE, NEGRO ENTRECANO
FRENTE	GRANDE
OJOS	CAFE

NARIZ	GRANDE, PROFUNDA, RECTILINEA LIBERAMENTE ELEVADA Y BASE HORIZONTAL
BOCA	CHICA CON LABIOS GRUESOS
MENTON	INCLINACION VERTICAL, ALTURA MEDIANA, ANCHURA MEDIANA
OREJAS	CONTORNO DEL LOBULO EN ESCUADRA
TEZ	BLANCA
COMPLEXION	MERIANA
PESO	78 KILOS APROXIMADAMENTE
ESTATURA	1.73 METROS

Asimismo, proporciona la media filiación de HECTOR BERRELLEZ o ARTURO E. BERRELLEZ:

EDAD APPROXIMADA	43 A 45 AÑOS
ESTATURA	1.76 a 1.78 METROS
COMPLEXION	ROBUSTA
CABELLO	ONDULADO, ENTRECANO Y RECORTADO
TEZ	BLANCA
OJOS	CAFE CLARO
PESTAÑAS	RIZADAS
CEJAS	POBLADAS
NARIZ	RECTA
BOCA	REGULAR
CARA	REDONDA
SEÑAS PARTICULARES	EN AMBAS MEJILLAS TIENE CICATRICES DE VIRUELA O ACNE

"Por otra parte y en cumplimiento de lo previsto en el Tratado de Extradición invocado, la Procuraduría General de la República otorga la promesa de formalizar la SOLICITUD DE EXTRADICION de los señores ANTONIO GARATE BUSTAMENTE o JOSE ANTONIO GARATE BUSTAMENTE y HECTOR BERRELLEZ o ARTURO E. BERRELLEZ, dentro del término establecido por el Instrumento Internacional referido, contado a partir de la fecha en que las autoridades estadounidenses logren su detención, independientemente de aportarse mayores dato personales para su mejor identificación y más pronta localización.

En virtud de las consideraciones de derecho y de hecho que expresa la Representación Social Federal ya invocada, y en razón de que se satisfacen los requisitos del Tratado de Extradición celebrado entre ambos paises y satisface además lo establecido en la Ley de Extradición International; por lo anterior, esta Cancillería con base en la fracción IV, articulo 15 del Reglamento Interior de la misma, solicita su intervención para efecto de que se inicie el procedimiento de extradición de los requeridos, agradeciendo se nos informe respecto de los avances y gestiones que se efectúen al respecto."

Por lo anterior, toda vez que en el documento que arriba transcribo se expresan actos y hechos relacionados con el delito que se imputa al reclamado, su descripción y su paradero en territorio estadounidense, asi como la promesa de formalizar la solicitud de extradición respectiva y la existencia de una orden de aprehensión librada por autoridad judicial competente en su contra, hechos que me permito presentarios como veridicos que son ante Vuestra Excelencia, solicito la presente detención provisional.

Hago mía la promesa de formalizar la solicitud de extradición y que dentro del término de sesentas días, a partir de la fecha en que se me confirme la detención provisional de sujeto reclamado, presentaré en su términos, la solicitud formal correspondiente; por lo que le agradeceré comunicarme, a la brevedad posible, la fecha precisa en que comience a correr el plazo a que se hace mención en el Tratado de referencia.

La detención provisional se solicita sin perjuicio de que por los conductos establecidos en el propio Tratado se pueda perfeccionar solicitud distinta respecto del presunto extraditado por delitos distintos a los que son fundamento de esta solicitud.

Por loarriba seotnalado, Señor Secretario, al encontrarse la petición que hago, deqntro de los supuestos descritos fpor el Tratado de Extradición vigente entre nuestros dos

países, ruego a Usted su amable concurso para obtener de las autoridades estadounidenses competentes en la materia, incluso de las judiciales, el que se tomen las medidas necesarias para obtener la aprehensión, con fines ulteriores de extradición desde los Estados Unidos de América a México, del reclamado HECTOR BERRELLEZ o ARTURO E. BERRELEZ.

Al agradecer a Vuestra Excelencia, anticipadamente, su valioso concurso en la gestión solicitada, hago propicia la ocasión para renovarle las seguridades de mi más alta y distinguida consideración.

Gustavo Petricioli
Embajador

Al Excelentisimo Señor
James A. Baker III,
Secretario de Estado,
Ciudad

COMMUNICATION FROM SECRETARIA DE RELACIONES EXTERIORES CONSULADA GENERAL TO THE HONORABLE JUSTICES OF THE NINTH CIRCUIT COURT OF APPEALS

Secretaría
De
Relaciones Exteriores

NOVEMBER 9, 1990.

Consulado General

TO THE HONORABLE JUSTICES OF THE
NINTH CIRCUIT COURT OF APPEALS

RE: United States vs.
Humberto Alvarez
Machain No. 90-50459

I, JOSE ANGEL PESCADOR OSUNA, accredited at the United States Department of State as Consul General of the United Mexican States in Los Angeles, California, following the instructions of my government and in the exercise of my consular functions as provided by the 1963 Vienna Convention of Consular Relations, to which both Mexico and the United States are parties, wish to communicate to this honorable court the position of the Government of Mexico regarding the above referenced case which involves a mexican national.

In so doing, nothing in this communication or its submission shall be construed, in any way, as a waiver of the sovereign immunity which Mexico and its Consulate General enjoy in accordance with international law, nor as a submission to the jurisdiction of this Honorable Court.

In reference to this case, this communication takes into account the facts established in and adopted by the United States District Court for the Central District of California, and contained in the record before this Honorable Court.

The position of the Government of Mexico is as follows:

1.- The Government of Mexico concurs with part of the ruling of the United States District Court for the central District of California, as stated below.

2.- A violation has been committed to the Extradition Treaty in force between the two countries (henceforth "the Treaty"), and to the General Principles of International Law.

3.- Mexico expressed its official attitude to this violation as established in the record of the district Court, via diplomatic notes to the State Department of the United States, and sought the return to Mexico of DR. HUMBERTO ALVAREZ MACHAIN.

4.- Since under the Treaty the United States had the right to request the extradition of DR. ALVAREZ MACHAIN, the Treaty was applicable to DR. ALVAREZ MACHAIN.

5.- The Treaty recognizes certain rights possessed by individuals to whom the Treaty's provisions apply.

6.- Individuals have often gone to court to ensure observance of the rights they derive from this Treaty.

7.- It is from the Treaty itself, as well as from the official diplomatic attitude taken by Mexico to its violation in this case, that DR. ALVAREZ MACHAIN can oppose the violation to this detriment of the treaty and to the jurisdiction asserted over his person in the United States after his abduction from Mexico.

8.- The Treaty constitutes the exclusive and sole means by which the Government of the United States can seek to bring a Mexican National present in Mexico to justice. Mexican legislation in force and effect makes it illegal for Mexican Government authorities to exclude a Mexican national from Mexican territory, or for Mexican Government authorities to deport a Mexican national from Mexi-

can territory. Therefore Mexican Government authorities have not entered, and could not enter, into any special arrangement or agreement, either with the United States or with any other country, to surrender its own nationals.

In the case of extradition treaties to which Mexico is a party, the Government of Mexico has invariably and expressly reserved to the parties the right to refuse the requested extradition to one of their own respective nationals, agreeing instead to prosecute them in their own national courts, in the interest of justice.

9.- The purpose and object of the Treaty, was from its inception, precisely to provide the legal framework, with which one of the parties could request of the other the extradition of persons from the territory of the former to the territory of the latter. The Treaty is binding on its parties, but serves no purpose if the parties are free to ignore its terms.

10.- The only legal means by which the United States could have pursued the prosecution of DR. HUMBERTO ALVAREZ MACHAIN, a Mexican national, was through the specific provision of the Treaty, which was negotiated, agreed upon and ratified precisely to deal, with the extradition of nationals. Article 9 its paragraph 1 that "neither contracting party shall be bound to deliver up its own nationals, but the executive of the requested party shall, if not prevented by the laws of the party, have the power to deliver them up if, in its discretion, it be deemed proper to do so'. Paragraph 2, on the other hand, provides that 'if extradition is not granted pursuant to paragraph 1 of this article, the requested party shall submit the case to its competent authorities for the purpose of prosecution, provided that party has jurisdiction over the offense".

11.- The judiciary of each of the parties to the Treaty is given, through several of the Treaty's provisions, ample participation in any extradition proceeding. There-

fore, the pronouncements of a nation court of one of the parties, in a case where the only legal means for bringing an individual to justice was to invoke the Extradition Treaty, in no way may be construed as an interference with the authority of the Executive branch for the conduct of Foreign Affairs.

12.- Not affirming the district court's holding in this case, would emasculate the Extradition Treaty for all practical and future effects. As governmental operations of this nature would receive implicit approval, and since abductions of Mexican suspects in the sovereign territory of Mexico would result in a legitimized assertion of personal jurisdiction, some United States authorities would find it easier not to resort to the binding terms of the Treaty.

13.- Moreover, not affirming the district court's holding in this case, would mean that a case such as the one at hand would be repeated, with all the negative diplomatic and legal consequences which have derived from it, to the detriment of the friendly relations that should always prevail between the two countries including in law enforcement and administration of justice matters, and which relationship should be maintained within the bounds of international law.

14.- The Mexican Government does not and will not limit itself to the mere reiteration of the criteria and principles stated above. The Mexican Government is in a position to insist that there is and always was an alternative means by which the interest of justice, so that crimes do not go unpunished. The Government of Mexico maintains that, in this case, justice can be administered, but that it has to be administered legally and in conformity with the requirements forth in the Extradition Treaty.

15.- The Mexican Government is consequently prepared to put into motion the administration of justice, as soon

as the Government of the United States, in compliance with article 9 of the Treaty, provides it with the necessary elements, as required by the Treaty, to enable it to comply in its turn with its treaty obligation to prosecute.

Respectfully,

JOSE ANGEL PESCADOR OSUNA
CONSUL GENERAL OF MEXICO
LOS ANGELES

The Treaty on Extradition, May 4, 1978, United States-Mexico, 31 U.S.T. 5059, T.I.A.S. No. 9656, provides:

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

The Government of the United States of America and the Government of the United Mexican States:

Desiring to cooperate more closely in the fight against crime and, to this end, to mutually render better assistance in matters of extradition;

Have agreed as follows:

ARTICLE 1

Obligation to Extradite

1. The Contracting Parties agree to mutually extradite, subject to the provisions of this Treaty, persons who the competent authorities of the requesting Party have charged with an offense or have found guilty of committing an offense, or are wanted by said authorities to complete a judicially pronounced penalty of deprivation of liberty for an offense committed within the territory of the requesting Party.

2. For an offense committed outside the territory of the requesting Party, the requested Party shall grant extradition if:

a) its laws would provide for the punishment of such an offense committed in similar circumstances, or

b) the person sought is a national of the requesting Party, and that Party has jurisdiction under its own laws to try that person.

ARTICLE 2

Extraditable Offenses

1. Extradition shall take place, subject to this Treaty, for willful acts which fall within any of the clauses of the Appendix and are punishable in accordance with the laws of both Contracting Parties by deprivation of liberty the maximum of which shall not be less than one year.

2. If extradition is requested for the execution of a sentence, there shall be the additional requirement that the part of the sentence remaining to be served shall not be less than six months.

3. Extradition shall also be granted for willful acts which although not being included in the Appendix, are punishable, in accordance with the federal laws of both Contracting Parties, by a deprivation of liberty the maximum of which shall not be less than one year.

4. Subject to the conditions established in paragraphs 1, 2 and 3, extradition shall also be granted:

a) For the attempt to commit an offense; conspiracy to commit an offense; or the participation in the execution of an offense; or

b) When, for the purpose of granting jurisdiction to the United States government, transportion of persons or property, the use of the mail or other means of carrying out interstate or foreign commerce, is also an element of the offense.

ARTICLE 3

Evidence Required

Extradition shall be granted only if the evidence be found sufficient, according to the laws of the requested Party, either to justify the committal for

trial of the person sought if the offense of which he has been accused had been committed in that place or to prove that he is the person convicted by the courts of the requesting Party.

ARTICLE 4

Territorial Application

1. For the purposes of this Treaty, the territory of a Contracting Party shall include all the territory under the jurisdiction of that Contracting Party, including airspace and territorial waters and vessels and aircraft registered in that Contracting Party if any such aircraft is in flight when the offense is committed.

2. For the purposes of this Treaty, an aircraft shall be considered to be in flight at any time from the moment when all its external doors are closed following the embarkation until the moment when any such door is opened for disembarkation.

ARTICLE 5

Political and Military Offenses

1. Extradition shall not be granted when the offense for which it is requested is political or of a political character.

If any question arises as to the application of the foregoing paragraph, the Executive authority of the requested Party shall decide.

2. For the purpose of this Treaty, the following offenses shall not be considered to be offenses included in paragraph 1:

a) The murder or other willful crime against the life or physical integrity of a Head of State or Head of Government or of his family, including attempts to commit such an offense.

b) An offense which the Contracting Parties may have the obligation to prosecute by reason of a multilateral international agreement.

3. Extradition shall not be granted when the offense for which extradition is requested is a purely military offense.

ARTICLE 6

Non bis in idem

Extradition shall not be granted when the person sought has been prosecuted or has been tried and convicted or acquitted by the requested Party for the offense for which extradition is requested.

ARTICLE 7

Lapse of Time

Extradition shall not be granted when the prosecution or the enforcement of the penalty for the offense for which extradition has been sought has become barred by lapse of time according to the laws of the requesting or requested Party.

ARTICLE 8

Capital Punishment

When the offense for which extradition is requested is punishable by death under the laws of the requesting Party and the laws of the requested Party do not permit such punishment for that offense, extradition may be refused unless the requesting Party furnishes such assurances as the requested Party considers sufficient that the death penalty shall not be imposed, or, if imposed, shall not be executed.

ARTICLE 9

Extradition of Nationals

1. Neither Contracting Party shall be bound to deliver up its own nationals, but the executive authority of the requested Party shall, if not prevented by the laws of that Party, have the power to deliver them up if, in its discretion, it be deemed proper to do so.

2. If extradition is not granted pursuant to paragraph 1 of this Article, the requested Party shall submit the case to its competent authorities for the purpose of prosecution, provided that Party has jurisdiction over the offense.

ARTICLE 10

Extradition Procedures and Required Documents

1. The request for extradition shall be made through the diplomatic channel.

2. The request for extradition shall contain the description of the offense for which extradition is required and shall be accompanied by:

a) A statement of the facts of the case;

b) The text of the legal provisions describing the essential elements of the offense;

c) The text of the legal provisions describing the punishment for the offense;

d) The text of the legal provisions relating to the time limit on the prosecution or the execution of the punishment of the offense;

e) The facts and personal information of the person sought which will permit his identification and, where possible, information concerning his location.

3. In addition, when the request for extradition relates to a person who has not yet been convicted, it shall be accompanied by:

a) A certified copy of the warrant of arrest issued by a judge or other judicial officer of the requesting Party;

b) Evidence which, in accordance with the laws of the requested Party, would justify the apprehension and commitment for trial of the person sought if the offense had been committed there.

4. When the request for extradition relates to a convicted person, it shall be accompanied by a certified copy of the judgment of conviction imposed by a court of the requesting Party.

If the person was found guilty but not sentenced, the extradition request shall be accompanied by a certification to that effect and a certified copy of the warrant of arrest.

If such person has already been sentenced, the request for extradition shall be accompanied by a certification of the sentence imposed and a statement indicating which part of the sentence has not been carried out.

5. All the documents that must be presented by the requesting Party in accordance with the provisions of this Treaty shall be acompanied by a translation in the language of the requested Party.

6. The documents which, according to this Article, shall accompany the request for extradition, shall be received in evidence when:

a) In the case of a request emanating from the United States, they are authenticated by the official seal of the Department of State and legalized by the manner prescribed by the Mexican law;

b) In the case of a request emanating from the United Mexican States, they are certified by the principle diplomatic or consular officer of the United States in Mexico.

ARTICLE 11

Provisional Arrest

1. In the case of urgency, either Contracting Party may request, through the diplomatic channel, the provisional arrest of an accused or convicted person. The application shall contain a description of the offense for which the extradition is requested, a description of the person sought and his whereabouts, an undertaking to formalize the request for extradition, and a declaration of the existence of a warrant of arrest issued by a competent judicial authority or a judgment of conviction issued against the person sought.

2. On receipt of such a request, the requested Party shall take the necessary steps to secure the arrest of the person claimed.

3. Provisional arrest shall be terminated if, within a period of 60 days after the apprehension of the person claimed, the executive authority of the requested Party has not received the formal request for extradition and the documents mentioned in Article 10.

4. The fact that the provisional arrest is terminated pursuant to paragraph 3 shall not prejudice the extradition of the person sought if the request for extradition and the necessary documents mentioned in Article 10 are delivered at a later date.

ARTICLE 12

Additional Evidence

If the Executive authority of the requested Party considers that the evidence furnished in support of

the request for extradition is not sufficient in order to fulfill the requirements of this Treaty, that Party shall request the presentation of the necessary additional evidence.

ARTICLE 13

Procedure

1. The request for extradition shall be processed in accordance with the legislation of the requested Party.

2. The requested Party shall make all arrangements necessary for internal procedures arising out of the request for extradition.

3. The competent legal authorities of the requested Party shall be authorized to employ all legal means within their power to obtain from the judicial authorities the decisions necessary for the resolution of the request for extradition.

ARTICLE 14

Decision and Surrender

1. The requested Party shall promptly communicate to the requesting Party its decision on the request for extradition.

2. In the case of complete or partial rejection of a request for extradition, the requested Party shall give the reasons on which it was based.

3. If the extradition is granted, the surrender of the person sought shall take place within such time as may be prescribed by the laws of the requested Party. The competent authorities of the Contracting Parties shall agree on the date and place of the surrender of the person sought.

4. If the competent authority has issued the warrant or order for the extradition of the person sought and he is not removed from the territory of the requested Party within the prescribed period, he shall

be set at liberty and the requested Party may subsequently refuse to extradite him for the same offense.

ARTICLE 15

Delayed Surrender

The requested Party, after granting the extradition, may defer the surrender of the person sought when that person is being proceeded against or is serving a sentence in the territory of the requested Party for a different offense, until the conclusion of the proceeding or the full execution of the punishment that has been imposed.

ARTICLE 16

Requests for extradition made by Third States

The requested Party, in the case of receiving requests from the other Contracting Party and from one or more third States for the extradition of the same person, be it for the same offense or for different offenses, shall decide to which requesting State it shall grant the extradition of that person.

ARTICLE 17

Rule of Specialty

1. A person extradited under the present Treaty shall not be detained, tried or punished in the territory of the requesting Party for an offense other than that for which extradition has been granted nor be extradited by that Party to a third State unless:

a) He has left the territory of the requesting Party after his extradition and has voluntarily returned to it;

b) He has not left the territory of the requesting Party within 60 days after being free to do so; or

c) The requested Party has given its consent to his detention, trial, punishment or extradition to a third State for an offense other than that for which the extradition was granted.

These stipulations shall not apply to offenses committed after the extradition.

2. If, in the course of the procedure, the classification of the offense is changed for which the person requested was extradited, he shall be tried and sentenced on the condition that the offense, in its new legal form:

a) Is based on the same group of facts established in the request for extradition and in the documents presented in its support; and

b) Is punishable with the same maximum sentence as the crime for which he was extradited or with a lesser sentence.

ARTICLE 18

Summary Extradition

If the person sought informs the competent authorities of the requested Party that he agrees to be extradited, that Party may grant his extradition without further proceedings, and shall take all measures permitted under its laws to expedite the extradition. In such cases Article 17 shall not be applicable.

ARTICLE 19

Surrender of Property

1. To the extent permitted under the law of the requested Party and subject to the rights of third parties, which shall be duly respected, all articles, instruments, objects of value or documents relating to the offense, whether or not used for its execution,

or which in any other manner may be material evidence for the prosecution, shall be surrendered upon the granting of the extradition even when extradition cannot be effected due to the death, disappearance, or escape of the accused.

2. The requested Party may condition the surrender of articles upon a satisfactory assurance from the requesting Party that the articles will be returned to the requested Party as soon as possible.

ARTICLE 20

Transit

1. The right to transport through the territory of one of the Contracting Parties a person who is not a national of that Contracting Party surrendered to the other Contracting Party by a third State shall be granted on presentation made through the diplomatic channel of a certified copy of the decision on extradition, provided that reasons of public order are not opposed to the transit.

2. The authorities of the transit State shall be in charge of the custody of the extradited person while that person is in its territory.

3. The Party to which the person has been extradited shall reimburse the State through whose territory such person is transported for any expenses incurred by the latter in connection with such transportation.

ARTICLE 21

Expenses

The requested Party shall bear the expenses of the arrangements referred to in Article 13, with the exception that the expenses incurred for the translation of documents and, if applicable, for the transportation of the person ordered extradited shall be paid by the requesting Party.

ARTICLE 22

Scope of Application

1. This Treaty shall apply to offenses specified in Article 2 committed before and after this Treaty enters into force.

2. Requests for extradition that are under process on the date of the entry into force of this Treaty, shall be resolved in accordance with the provisions of the Treaty of 22 February, 1989,[1] and the Additional Conventions on Extradition of 25 June 1902,[2] 23 December 1925,[3] and 16 August 1939.[4]

ARTICLE 23

Ratification, Entry into Force, Denunciation

1. This Treaty shall be subject to ratification; the exchange of instruments of ratification shall take place in Washington as soon as possible.

2. This Treaty shall enter into force on the date of exchange of the instruments of ratification.

3. On entry into force of this Treaty, the Treaty of Extradition of 22 February 1899 and the Additional Conventions on Extradition of 25 June 1902, 23 December 1925 and 16 August 1939 between the United States of America and the United Mexican States, shall cease to have effect without prejudice to the provisions of Article 22.

4. Either Contracting Party may terminate this Treaty by giving notice to the other Party. The termination shall take effect six months after the receipt of such notice.

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[1] TS 242; 31 Stat. 1818.

[2] TS 421; 9 Bevrans 918.

[3] TS 741; 44 Stat. 2409.

[4] TS 967; 55 Stat. 1183.

Done in two originals, in the English and Spanish languages, both equally authentic, at Mexico City this fourth day of May, one thousand nine hundred seventy-eight.

/s/ Cyrus Vance [1]
For the Government of the
United States of America

/s/ S. Roel [2]
For the Government of the
United Mexican States

---

[1] Cyrus Vance.

[2] S. Roel.

APPENDIX

1. Murder or manslaughter; abortion.
2. Malicious wounding or injury.
3. Abandonment of minors or other dependents when there is danger of injury or death.
4. Kidnapping; child stealing; abduction; false imprisonment.
5. Rape; statutory rape; indecent assault; corruption of minors, including unlawful sexual acts with or upon children under the age of consent.
6. Procuration; promoting or facilitating prostitution.
7. Robbery; burglary; larceny.
8. Fraud.
9. Embezzlement.
10. An offense against the laws relating to counterfeiting and forgery.
11. Extortion.
12. Receiving or transporting any money, valuable securities, or other property knowing the same to have been unlawfully obtained.
13. Arson; malicious injury to property.
14. Offenses against the laws relating to the traffic in, possession, production, manufacture, importation or exportation of dangerous drugs and chemicals, including narcotic drugs, cannabis, psychotropic drugs, opium, cocaine, or their derivatives.
15. Offenses against the laws relating to the control of poisonous chemicals or substances injurious to health.

16. Piracy.

17. Offenses against the safety of means of transportation including any act that would endanger a person in a means of transportation.

18. An offense relating to unlawful seizure or exercise of control of trains, aircraft, vessels, or other means of transportation.

19. Offenses against the laws relating to prohibited weapons, and the control of firearms, ammunition, explosives, incendiary devices or nuclear materials.

20. An offense against the laws relating to international trade and transfers of funds or valuable metals.

21. An offense against the laws relating to the importation, exportation, or international transit of goods, articles, or merchandise, including historical or archeological items.

22. Violations of the customs laws.

23. Offenses against the laws relating to the control of companies, banking institutions, or other corporations.

24. Offenses against the laws relating to the sale of securities, including stocks, bonds and instruments of credit.

25. Offenses against the laws relating to bankruptcy or rehabilitation of a corporation.

26. Offenses against the laws relating to prohibition of monopoly or unfair transactions.

27. Offenses against the laws relating to protection of industrial property or copyright.

28. Offenses against the laws relating to abuse of official authority.

29. Bribery, including soliciting, offering and accepting bribes.

30. Perjury; false statements to any governmental authority. Subornation of perjury or false statements.

31. Offenses against the laws relating to obstruction of justice, including harboring criminals and suppressing evidence.

SUPREME COURT OF THE UNITED STATES

No. 91-712

UNITED STATES, PETITIONER

v.

HUMBERTO ALVAREZ-MACHAIN

ORDER ALLOWING CERTIORARI

Filed January 10, 1992

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted. Petitioner's brief and the joint appendix are to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., February 14, 1992. Respondent's brief is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., March 5, 1992. Any reply brief is to be filed with the Clerk and served upon opposing counsel in accordance with Rule 25.3. Oral argument is scheduled for the March Session beginning March 23, 1992.

January 10, 1992

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